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Jennifer M. Jones
Deputy Executive Secretary
Attn: Comments/Legal OES (RIN 3064-AG11)
Federal Deposit Insurance Corporation
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Re: Regulatory Capital Rule: Modifications to the Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Their Subsidiary Depository Institutions; Total Loss-Absorbing Capacity and Long-Term Debt Requirements for U.S. Global Systemically Important Bank Holding Companies; Docket ID OCC–2025–0006 (OCC); Docket No. R–1867, RIN 7100–AG96 (FRB); RIN 3064–AG11 (FDIC))

Dear Messrs. & Mmes.:

Thank you for the opportunity to comment on the agencies' proposal to amend the regulations implementing the Enhanced Supplementary Leverage Ratio (or "eSLR") and associated requirements (the "Proposal").[1] This comment letter draws on prior writings and remarks that are relevant to the questions raised in the Proposal.[2]

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[1] *See* Off. of the Comptroller of the Currency, Bd. of Governors of the Fed. Rsrv. Sys. & Fed. Deposit Ins. Corp., Regulatory Capital Rule: Modifications to the Enhanced Supplementary Leverage Ratio Standards for U.S. Global Systemically Important Bank Holding Companies and Their Subsidiary Depository Institutions; Total Loss-Absorbing Capacity and Long-Term Debt Requirements for U.S. Global Systemically Important Bank Holding Companies, 90 Fed. Reg. 30,780 (July 10, 2025).

[2] *See* Graham S. Steele, *Banking as a Social Contract*, 22 U.C. DAVIS BUS. L. J. 65 (2021); *also* Graham S. Steele, *The Tailors of Wall Street*, 93 U. COLO. L. REV. 993 (2022); *also* Graham Steele, Assistant Sec'y, U.S. Dep't of the Treasury, Lessons for Bank Regulation and Oversight from the 2023 Banking Stress, Remarks at the Ams. for Fin. Reform Educ. Fund (July 2023), https://home.treasury.gov/news/press-releases/jy1648 [hereinafter "AFR Remarks"]; *also* Graham

The Proposal argues that deregulation will help stabilize the US Treasury markets that went haywire in early April in response to the economic and political uncertainty created by the Trump Administration's so-called "Liberation Day" tariffs. This instability—the third such episode in the past seven years—has raised questions in some corners about the Treasury market's status as a global safe-haven. Unfortunately, not only will the Proposal fail to address the underlying loss of confidence in US Treasuries as an investment asset, but it will also make a fragile economy even more brittle. In other words, this purported solution is unnecessary, ill-suited to address the problem and may help create the conditions for financial instability.

This letter outlines ten reasons the agencies should withdraw the Proposal and pursue other options.

I. The Proposal's central premises—that the leverage ratio is responsible for Treasury market disruptions and leverage ratio reduction will benefit Treasury market liquidity—lack sufficient empirical basis.

Vice Chair for Supervision Michelle Bowman has noted the importance of "data-driven analysis"[3] and an "evidence-based approach"[4] in formulating regulatory policy. Unfortunately, the Proposal fails to meet this standard. As others have observed, "there is no firm consensus on the role of the SLR specifically in Treasury market dysfunction"[5] and the credible evidence attributing Treasury market liquidity issues to bank regulations in general—and the leverage ratio specifically—is mixed, at best.

Recent historical perspective is helpful to appreciate the full context of the Treasury market issues. In May and June of 2013, the Treasury market experienced a selloff and a decline in liquidity, known as the "taper tantrum" because it was largely attributed to congressional testimony by then-Fed Chair Ben Bernanke about the Fed's intention to wind down its asset purchases under the Quantitative Easing (or "QE") program.[6] Notwithstanding theories floated at the time that post-crisis regulations, including capital and leverage regulations, constrained dealers from providing liquidity during this period, researchers at the Federal Reserve Bank of New York (or "FRBNY") found that "dealers with greater ability to take on risk prior to the selloff

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Steele, The End of Banking History? Finishing the Unfinished Business of Financial Reform (Roosevelt Inst., 2024), https://rooseveltinstitute.org/publications/the-end-of-banking-history/.

[3] Michelle Bowman, Member, Bd. of Governors of the Fed. Rsrv. Sys., *Perspectives on U.S. Monetary Policy and Bank Capital Reform*, Remarks at Policy Exch. (June 25, 2024), https://www.federalreserve.gov/newsevents/speech/files/bowman20240625a.pdf.

[4] Michelle Bowman, Member, Bd. of Governors of the Fed. Rsrv. Sys., *The Role of Research, Data, and Analysis in Banking Reforms* 2, Remarks at the 2023 Community Banking Rsch. Conference (Oct. 4, 2023), https://www.federalreserve.gov/newsevents/speech/files/bowman20231004a.pdf.

[5] Yesha Yadav & Joshua Younger, *Central Clearing the U.S. Treasury Market*, 92 U. CHI. L. REV. 545, 581 n. 209 (2025) (citing sources).

[6] *See* Tobias Adrian, Michael J. Fleming, Jonathan E. Goldberg, Morgan Lewis, Fabio M. Natalucci & Jason J. Wu, *Dealer Balance Sheet Capacity and Market Liquidity during the 2013 Selloff in Fixed-Income Markets*, FED. RSRV. BANK N.Y. LIBERTY ST. ECONS. (Oct. 16, 2013), https://libertystreeteconomics.newyorkfed.org/2013/10/dealer-balance-sheet-capacity-and-market-liquidity-during-the-2013-selloff-in-fixed-income-markets.html.

actually sold off more," concluding that "dealer behavior during the selloff appears to have been driven more by differences in risk appetite than by regulatory constraints."[7]

On October 15, 2014, the Treasury market again experienced unusual volatility, with yields and bid-ask spreads widening to ranges only seen during three particularly consequential events since 1998.[8] An interagency review of this event cited as potential causes a variety of macroeconomic variables,[9] changes in Treasury market structure,[10] the composition of the counterparties in the Treasury market, and some unusual trading patterns.[11] Importantly, the report found limited evidence as to whether regulations had inhibited dealers' market-making capacity and therefore bore any responsibility for dealers' inability to offer sufficient intermediation during the episode.[12]

Indeed, in Congressional testimony, then-Governor Jerome Powell reinforced this point, stating, "[p]rudential regulation is really not the headline in the Treasury markets . . . we hear [this argument] from market participants . . . [b]ut, it just is not a case that is proven on the data that we have."[13]

Importantly, both of these events occurred years before the SLR and eSLR became effective for U.S. firms in January 2018.

In September 2019, the repo markets experienced another dislocation, as overnight repo borrowing rates spiked.[14] Speculation about the causes of the spike in repo rates focused on two coinciding factors—corporations withdrawing cash from money market funds and other vehicles to satisfy a quarterly tax payment on the same day that a sizeable Treasury auction settled—that may have simultaneously increased the supply of Treasury repo collateral, thereby reducing the cash available for investment.[15] Researchers at both the Board of Governors (or "the Board") and the FRBNY cited repo market structure factors as contributing to the spike in rates.[16] They also observed that bank capital and other regulations had been in place for some time before the

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[7] *Id.*

[8] U.S. DEP'T OF THE TREASURY *ET AL.*, JOINT STAFF REP.: THE U.S. TREASURY MARKET ON OCTOBER 15, 2014 17 (2015), https://home.treasury.gov/system/files/276/joint-staff-report-the-us-treasury-market-on-10-15-2014.pdf.

[9] *Id.*, at 17-18.

[10] *Id.*, at 41-44. As the staff report noted, the size of the Treasury market nearly tripled from $4.3 trillion pre-Global Financial Crisis to $12.6 trillion in 2015, likely in response to a variety of factors from the Fed's QE policies to increased demand for "safe" assets. *See id.*, at 40.

[11] *Id.*, at 33-34.

[12] *Id.*, at 38.

[13] *See Examining Current Trends and Changes in the Fixed-Income Markets, Joint Hrg. before the Subcomm. on Securities, Ins., and Investment and the Subcomm. on Econ. Pol'y, U.S. Senate Comm. on Banking, Hsg., and Urban Affs.*, at 9 (Apr. 14, 2016), https://www.congress.gov/114/chrg/CHRG-114shrg20948/CHRG-114shrg20948.pdf.

[14] *See* Gara Afonso, Marco Cipriani, Adam Copeland, Anna Kovner, Gabriele La Spada & Antoine Martin, *The Market Events of Mid-September 2019*, 27(2) FRBNY ECON. POL'Y REV. 1 (2021).

[15] *See* Sriya Anbil, Alyssa Anderson & Zeynep Senyuz, *What Happened in Money Markets in September 2019?*, FEDS Notes (Feb. 27, 2020), https://www.federalreserve.gov/econres/notes/feds-notes/what-happened-in-money-markets-in-september-2019-20200227.htm; *also* Afonso *et al.*, *supra* note 14.

[16] *See* Afonso *et al.*, *supra* note 14; *also* Anbil, Anderson & Senyuz, *supra* note 15.

market issues, reducing their likelihood as an explanation for a sudden disruption in the money markets years after their implementation.[17]

Treasury market liquidity again declined during the early weeks of the COVID-19 pandemic. Markets reacted negatively to the anticipated economic impacts of pandemic-driven public health and policy developments in mid-to-late-March 2020, with bid-ask spreads in the Treasury-backed repo markets widening.[18] Major dealers pulled back from a number of markets and prime brokers withdrew credit from their hedge fund clients, rendering private market participants unable to absorb a variety of assets, including Treasuries and Treasury exchange-traded funds.[19] The Treasury Department's Financial Stability Oversight Council (or "FSOC") determined the disruptions in the Treasury markets were likely the result of a combination of factors, including financial companies selling assets to meet potential customer redemptions, levered hedge funds seeking to liquidate their positions and move into cash, and a lack of available dealer balance sheet from carrying higher-than-normal inventories of Treasuries and other assets.[20]

Unlike previous Treasury market disruptions, at the onset of COVID-19, the Board on April 1, 2020, granted regulatory forbearance from the SLR and eSLR rules by temporarily excluding Treasury securities and central bank reserves until March 31, 2021.[21] In its stand-alone emergency rulemaking, the Board argued banks are essential intermediaries in the money markets, especially in their roles as primary dealers during times of stress; cited the widening spreads in the Treasury markets; and argued that banks required relief from the leverage ratio in order to continue serving as reliable intermediaries.[22] Shortly thereafter, all three banking regulators instituted a rule allowing depository institutions to elect to exclude Treasuries and reserves from the SLR—importantly, insured depository institutions electing this regulatory forbearance would be subject to prior approval on their capital distributions.[23] Notwithstanding a public lobbying

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[17] *See* Afonso *et al.*, *supra* note 14, at 2.

[18] *See* Lorie K. Logan, Exec. Vice President, Mkts. Grp., Fed. Rsrv. Bank of N.Y., *The Federal Reserve's Recent Actions to Support the Flow of Credit to Households and Businesses*, Remarks before the Foreign Exch. Comm., Fed. Rsrv. Bank of N.Y. (Apr. 14, 2020), https://www.newyorkfed.org/newsevents/speeches/2020/log200414.

[19] *See* Jiakai Chen, Haoyang Liu, David Rubio, Asani Sarkar & Zhaogang Song, *Did Dealers Fail to Make Markets during the Pandemic?*, FED. RSRV. BANK OF N.Y. LIBERTY ST. ECON. (Mar. 24, 2021), https://libertystreeteconomics.newyorkfed.org/2021/03/did-dealers-fail-to-make-markets-during-the-pandemic.html; *also* Randal K. Quarles, Vice Chair for Supervision, Bd. of Governors of the Fed. Rsrv. Sys., *What Happened? What Have We Learned From It? Lessons from COVID-19 Stress on the Financial System* 5 (Oct. 15, 2020), https://www.federalreserve.gov/newsevents/speech/files/quarles20201015a.pdf (observing the "intense and widespread selling pressures appear to have overwhelmed dealers' capacity or willingness to absorb and intermediate Treasury securities"); *also* FIN. STABILITY OVERSIGHT COUNCIL, 2020 ANNUAL REPORT 108 (2020), https://home.treasury.gov/system/files/261/FSOC2020AnnualReport.pdf (noting banks' prime brokerage lending declined by $275 billion in March 2020, more than three times the contraction of repo market borrowing).

[20] *See* FIN. STABILITY OVERSIGHT COUNCIL, *supra* note 19, at 27-28.

[21] *See* Bd. of Governors of the Fed. Rsrv. Sys., Temporary Exclusion of U.S. Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio, 85 Fed. Reg. 20,578 (2020).

[22] *See id.*, at 20,579.

[23] *See* Off. of the Comptroller of the Currency, Bd. of Governors of the Fed. Rsrv. Sys. & Fed. Deposit Ins. Corp., Regulatory Capital Rule: Temporary Exclusion of U.S. Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio for Depository Institutions, 85 Fed. Reg. 32,980 (June 1, 2020).

effort by the banking industry for the leverage ratio exemption to be made permanent,[24] in March 2021, the Board and the agencies rightly announced it would allow the temporary SLR relief to expire.[25] Subsequent research by Board staff did not find any "noticeable effect of the exclusions on dealers' direct holdings of Treasuries or their [secured financing transactions] backed by Treasuries."[26]

No further Treasury market disruptions occurred until those caused by the Liberation Day tariffs.

So, the literature and recent historical experience on this issue suggest that factors other than the leverage ratio affect dealers' ability to provide liquidity, that the temporary leverage ratio exemption provided in 2020 had limited beneficial effects, and that institutions subject to a leverage ratio were able to provide more liquidity in stress conditions.[27] The Proposal's own data show that, over the period from 2014 to 2024, banks' share of Treasury securities outstanding has grown by 65 percent, despite the significant growth in the market and the concurrent implementation of the SLR.[28] At the same time, many of the arguments in support of the proposed deregulation are highly anecdotal, relying on the say-so of the very banks that are seeking, and would benefit from, this deregulation.[29]

What Chair Powell said in 2016 remains true today: "we are looking for this story, but it is just not in the data that we have so far."[30]

The disparity between the weight of evidence and the Proposal does not reflect an approach that is "data-driven"[31] or the principle that "policymakers should be expected to show their work."[32]

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[24] *See* Colby Smith & Laura Noonan, *U.S. Banks Push Fed for Extension of COVID Capital Relief*, FIN. TIMES (Feb. 11, 2021), https://www.ft.com/content/91f43572-414c-48d1-af80-857b9fa2fb18.

[25] *See* Press Release, Fed. Rsrv. Bd., Federal Reserve Board Announces that the Temporary Change to Its Supplementary Leverage Ratio (SLR) for Bank Holding Companies Will Expire as Scheduled on March 31 (Mar. 19, 2021), https://www.federalreserve.gov/newsevents/pressreleases/bcreg20210319a.htm.

[26] Paul Cochran, Sebastian Infante, Lubomir Petrasek, Zack Saravay & Mary Tian, *Dealers Treasury Market Intermediation and the Supplementary Leverage Ratio*, FEDS Notes (July 28, 2023), https://www.federalreserve.gov/econres/notes/feds-notes/dealers-treasury-market-intermediation-and-the-supplementary-leverage-ratio-20230803.html; *but see* BASEL COMM. ON BANK SUPERVISION, EARLY LESSONS FROM THE COVID-19 PANDEMIC ON THE BASEL REFORMS 56-61 (July 2021), https://www.bis.org/bcbs/publ/d521.pdf (finding that "empirical analysis *suggests* that the exemptions *may* have had a meaningful positive effect on US G-SIBs' US Treasury holdings" but that "[s]tructural factors other than leverage ratio constraints, such as differences in their share of the Treasury market, may have contributed to this result.") (emphasis added).

[27] *See* Cochran *et al.*, *supra* note 26; *also* Chen *et al.*, *supra* note 19.

[28] *See* 90 Fed. Reg., at 30,794-95.

[29] *See* 90 Fed. Reg., at 30,783-84 ("Market participants have suggested that such disincentives could, under certain circumstances, impede the orderly functioning of the U.S. Treasury market and of U.S. and global financial markets more broadly."); *also* 85 Fed. Reg., at 20,580 (noting that "[l]arge holding companies have cited balance sheet constraints for their broker-dealer subsidiaries as an obstacle to supporting the Treasury market.").

[30] *Examining Current Trends and Changes in the Fixed-Income Markets*, *supra* note 13, at 9.

[31] Bowman, *supra* note 3.

[32] Bowman, *supra* note 4, at 3.

The Proposal's inadequate evidentiary basis does not just demonstrate that the Proposal violates the principles of sound policymaking that its own supporters have established. More significantly, this lack of empirical support is contrary to established principles of administrative law and policymaking.

In *Loper Bright Enterprises v. Raimondo*, the Supreme Court recently reaffirmed the fact that agencies must engage in "reasoned decisionmaking."[33] Because it lacks sufficient empirical support, the Proposal likely violates the "presumption … against changes in current policy that are not justified by the rulemaking record."[34] That is, it may well run afoul of the principle that "an agency rule would be arbitrary and capricious if the agency . . . offered an explanation for its decision that runs counter to the evidence before the agency."[35]

II. Banks are likely to use their reduced leverage requirements to distribute, not conserve, their excess capital.

Weakening the leverage ratio is unlikely to address the purported problem of Treasury market resilience because it won't incentivize banks to intermediate more Treasuries. As the Proposal acknowledges, GSIBs have discretion about how to use the capital relief they will enjoy and nothing contained in the Proposal nor in the broader capital framework requires them to intermediate in the Treasury market.[36] A bank considers a variety of factors when purchasing a Treasury security, including its interest rate outlook, liquidity needs, balance sheet positioning, regulatory capital treatment, and importantly, the security's duration and yield relative to other investment options.[37] The most likely outcome from lowering capital and leverage requirements is that banks will simply pay out that capital through additional dividends to shareholders and buying back more stock.

Contrary to the Proposal's stated concerns about the binding nature of leverage ratio, most GSIBs are not bound by the eSLR.[38] According to their regulatory filings, at the end of 2024, US GSIBs had more than $300 billion in tier 1 capital above their minimum leverage requirements they could be using to purchase trillions of dollars in Treasuries. The fact that most of the GSIBs aren't bound by the leverage ratio suggests that banks' balance sheet constraints are in no small part the product of discretionary internal risk management policies, such as internal trading limits and risk models, which may or may not be consistent with the letter or spirit of supervision and regulation.[39] The Proposal acknowledges this point, albeit in passing, and former Vice Chair

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[33] 144 S. Ct. 2244, 2263 (2024) (quoting *Michigan v. EPA*, 576 U.S. 743, 750 (2015)).
[34] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (emphasis in original).
[35] *Id.*, at 43.
[36] *See* 90 Fed. Reg., at 30,800 n. 87 (noting that the Proposal's estimates of additional balance sheet capacity created by the Proposal "are not meant to suggest how or to what extent any additional capacity may be used.").
[37] Indeed, the Proposal notes that the "relative importance of U.S. Treasury securities as investment assets has increased for banking organizations over the last decade." 90 Fed. Reg., at 30,795.
[38] *See* BASEL COMM. ON BANK SUPERVISION, *supra* note 26, at 53 (finding four out of 20 banks subject to the SLR had binding leverage ratios as of the first quarter of 2020).
[39] *See* Afonso *et al*., *supra* note 14, at 22; *also* IMF, *Preempting a Legacy of Vulnerabilities*, GLOBAL FIN. STABILITY REPORT 23-25 (Apr. 2021); *also* Falk Bräuning & Hillary Stein, *The Effect of Primary Dealer Constraints on Intermediation in the*

for Supervision Randal Quarles conceded at the time that banks' internally imposed risk management policies played a role in the COVID-19 financial stress.[40]

Consistent with the design of the Board's capital buffer framework,[41] banks can already dip into the leverage ratio's built-in buffer if they want to absorb demand for Treasuries. Macroprudential capital and leverage rules are constructed to include a series of buffers that banks can build up during stable parts of the economic cycle and draw down when the cycle turns. The only catch is that, under the existing rules, GSIBs that fall below the eSLR are subject to graduated restrictions on capital distributions like dividends, stock buybacks, and discretionary bonus payments.[42]

These capital distribution restrictions applied to all distributions for any bank availing itself of the forbearance available under the agencies joint SLR interim final rule issued in 2020. Tellingly, as opposed to the Board's holding company interim final rule that automatically provided forbearance with no associated costs, under the agencies' joint rulemaking issued six weeks later, only one US GSIB—Goldman Sachs[43]—reported opting-in to the forbearance, reflecting the reality that many firms would appear to prefer distributing capital over receiving leverage ratio forbearance. As opposed to the mainly theoretical argument included in the Proposal, this recent real-world example demonstrates the fallacy underlying the agencies' Proposal and underscores why the agencies should not pursue leverage ratio relief without accompanying safety and soundness measures.

Reducing the eSLR requirement will not solve the fundamental conflict that supporting the Treasury market makes less money available for banks' shareholders. GSIBs' capital distribution ultimately depletes their balance sheet capacity which, in turn, reduces their ability to absorb inflows of safe assets, or support other forms of credit creation, undermining GSIBs' role serving as liquidity providers and resulting in liquidity crises. In 2024 alone, US GSIBs paid out more than $100 billion in dividends and buybacks that could have supported as much as $2 trillion in Treasury purchases or more lending.

Treasury Market 3-4 (Fed. Rsrv. Bank of Boston Working Paper no. 24-7) (July 2024), https://www.bostonfed.org/publications/research-department-working-paper/2024/the-effect-of-primary-dealer-constraints-on-intermediation-in-the-treasury-market.aspx.

[40] *See* 90 Fed. Reg., at 30,792 n. 63; *also* Quarles, *supra* note 19, at 5 n. 4 ("Limits on dealers' intermediation capacity may be driven by their internal capital, liquidity, and risk-management practices, their compliance with regulations and supervisory expectations, or concerns over their profit and loss statements.").

[41] *See* 12 C.F.R. § 217.11.

[42] *See* Off. of the Comptroller of the Currency, Bd. of Governors of the Fed. Rsrv. Sys. & Fed. Deposit Ins. Corp., Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and Their Subsidiary Insured Depository Institutions, 78 Fed. Reg. 51,101, 51,106 (Aug.20, 2013). The eSLR is constructed as the benchmark for "well capitalized" under the Prompt Corrective Action framework for the insured depository institution; for the holding company, the "enhanced" portion of the SLR is considered a 2 percent buffer, similar to the capital conservation buffer in the risk-based capital framework. *Id.*, at 51,100-01.

[43] *See* The Goldman Sachs Group, Inc., Annual Report on Form 10-K for the Fiscal Year Ended Dec. 31, 2020, at 13 (Feb. 21, 2021).

The Proposal is likely to provide some specific benefits to banks and their shareholders, but, as discussed more below, the balance of *public*, not private, costs and benefits should be the dispositive consideration when crafting macroprudential policies that apply to GSIBs that enjoy some measure of explicit and implicit public support.

III. US Treasuries are not riskless, and the leverage ratio plays a complementary—not a "backstop"—role in the prudential regulatory framework.

The Proposal states as one of its purposes ensuring the leverage ratio "generally serv[es] as a backstop to risk-based capital requirements . . ."[44] But the disruptions in the Treasury markets the Proposal is ostensibly intended to address highlight the value of leverage ratios as a *complement*, not a backstop, to risk-based capital rules.

The Board has often noted Treasuries and central bank reserves carry no credit risk.[45] Experience demonstrates, however, that the "safety" of an asset is situational, depending upon factors such as an asset's intended purpose, its attributes, and a financial institution's risk-bearing capacity.[46] For example, while there may not be significant *credit* risk, there is interest rate risk in holding Treasuries and liquidity risk in monetizing a large amount of Treasury holdings to meet surges in customer demand.[47] The high-velocity nature of short-term wholesale funding markets, and the role of Treasuries as the foundation for collateralized lending, means that such safe assets must provide "time-critical liquidity"; that is, they must be liquid at all times and under all market conditions—and *especially* during anomalous market conditions.[48]

Apart from central bank reserves which pose no credit or market risk, no asset enjoys truly universal "safe" status, and the assumption of universal safety can itself fuel systemic risk if market sentiment is suddenly and unexpectedly disrupted. In 2023, banks with mark-to-market losses in their securities portfolios—including Treasury securities—were unable to meet customer withdrawals, leading to broader stress in the banking system. For example, Silvergate

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[44] 90 Fed. Reg., at 30,782.

[45] *E.g.*, 85 Fed. Reg., at 20,580.

[46] *See* Anna Gelpern & Erik F. Gerding, *Inside Safe Assets*, 33 YALE J. REGUL. 363, 372 (2016). Secured lending markets create interconnections between institutions and exposures to fluctuations in collateral valuation that impacts financial system leverage and drains market liquidity during a race for collateral in response to margin calls. *See id.*; *also* Zoltan Pozsar, Tobias Adrian, Adam Ashcraft & Hayley Boesky, *Shadow Banking*, 19(2) FRBNY ECON. POL'Y REV. 1, 3 (2013). Pozsar and Singh estimated the amount of off-balance-sheet collateral at large international banks was $5.8 trillion in 2010. *See* Zoltan Pozsar & Manmohan Singh, *The Nonbank-Bank Nexus and the Shadow Banking System* 10 (Int'l Monetary Fund Working Paper No. 11/289) (2011). For a discussion of the dynamics of off-balance-sheet collateral and leverage, see Manmohan Singh & Zohair Alam, *Leverage—A Broader View* (Int'l Monetary Fund, Working Paper No. 18/62) (2018). The SLR is meant to account for these leveraged exposures that are not captured through risk-based capital requirements or standard bank leverage ratios.

[47] *See* Randal K. Quarles, Vice Chair for Supervision, Bd. of Governors of the Fed. Rsrv. Sys., *The Economic Outlook, Monetary Policy, and the Demand for Reserves* 9, Feb. 6, 2020 (observing it "may be difficult to liquidate a large stock of Treasury securities to meet large 'day one' outflows. For firms with significant capital market activities, wholesale operations, and institutional clients (such as hedge funds), this scenario is not just theoretical. In the global financial crisis, several firms experienced outflows exceeding tens of billions of dollars in a single day.").

[48] *See* Daniela Gabor, *Critical Macro-finance: A Theoretical Lens*, 6 FIN. & SOC'Y 45, 49 (2020).

Bank failed when its underwater securities portfolio meant it could not meet the demand for customer withdrawals, sparking subsequent runs on Silicon Valley Bank—which had been forced to sell its entire available-for-sale securities portfolio at an after-tax loss—Signature Bank, and, eventually, First Republic Bank. It was only thanks to a resilient economy, the prudential regulatory reforms like the eSLR instituted after the 2008 financial crisis, and extraordinary government support that these failures did not lead to a broader and more severe banking crisis. Instability could well return to the Treasury market if the Trump Administration and Congress continue the trend of issuing record amounts of U.S. debt to finance ever-increasing budget deficits.

This episode demonstrated the importance of less risk-sensitive measures, in addition to risk-based ones, and highlighted the importance of evaluating the safety and soundness of banks from a variety of credible perspectives.[49] Prior to its failure, Silvergate had a risk-based capital ratio of 53 percent but a leverage ratio of just 5.12 percent.[50] As I observed at the time, no single measure will—or can realistically be expected to—comprehensively capture the full range of potential risks, underscoring the need for a belt-and-suspenders approach to capital regulation.[51] That is, the leverage ratio should be properly understood as a *complement* to risk-based capital rules, not a "backstop."

In addition, for these reasons, one of the Proposal's suggested modifications to exempt Treasuries held at broker-dealer subsidiaries—what the proposal calls the "narrow exclusion approach"[52]—would be unwise and would replicate many of the vulnerabilities experienced just two short years ago, during the 2023 regional banking stress. More broadly, excluding any assets from the denominator of the SLR "would defeat the whole purpose of a leverage ratio, which is to place a cap on total leverage, no matter what the assets on the other side of the balance sheet

[49] *See* Steele, AFR Remarks, *supra* note 2.
[50] *See* Silvergate Bank, Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only – FFIEC 041 (quarter ending 12/31/2022), *available at:* https://cdr.ffiec.gov/Public/ViewFacsimileDirect.aspx?ds=call&idType=fdiccert&id=27330&date=12312022.
[51] *See* Steele, AFR Remarks, *supra* note 2; *also* Daniel K. Tarullo, Member, Bd. of Governors of the Fed. Rsrv. Sys., *Departing Thoughts* 8, Remarks at the Woodrow Wilson Sch. Gov't, Princeton Univ. (Apr. 4, 2017), https://www.federalreserve.gov/newsevents/speech/files/tarullo20170404a.pdf ("No single measure of capital is sufficient to ensure an adequate buffer however.").
[52] 90 Fed. Reg., at 30,787.

may be."[53] Instead, capital requirements for broker-dealers of government securities require updating, with macroprudential aims in mind.[54]

IV. The Proposal's impact analysis does not incorporate the full range of relevant impacts.

Following the agencies' June 2023 proposal to implement updates to the capital rule applying the Basel III international capital agreement, known as "Basel 3 Endgame," Vice Chair Bowman argued any analysis of the Basel 3 Endgame proposal "would not be complete unless it incorporates the impact of other concurrent and complementary proposals."[55] Vice Chair Bowman should apply the same standard for this rulemaking, particularly because the Proposal *increases* financial stability risk, as opposed to the Basel III Endgame implementation which would have *decreased* it.

First, the Proposal's analysis is already dated, because it does not reflect GISBs' lower anticipated stress capital buffers (SCB). After the most recent supervisory stress test results, US GSIBs' estimated SCBs, and by extension their risk-based capital requirements, are set to decline by 88 basis points on average, according to my calculations. This has paved the way for recently announced plans to increase dividends by an average of 12 percent across the eight US GSIBs.[56] Three banks alone—JPMorgan, Bank of America, and Morgan Stanley—have announced plans to buy back up to $110 billion in stock over the next year. By using data from prior quarters, not forward-looking estimates, the Proposal likely understates the amount of capital depletion that will occur.

Second, the Proposal's analysis does not factor in additional planned reductions to banks' capital requirements. The Board has already proposed some weakening of stress tests and the

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[53] Tarullo, *supra* note 51, at 13. Further, as the Proposal suggests, exempting *any* sovereign debt, even US Treasuries, from the leverage ratio would be inconsistent with the Basel Committee leverage ratio framework, which includes all assets in the denominator of the requirement and only permits, in specific circumstances, the exclusion of central bank reverses with an offset to maintain capital. US. banking agencies taking, or even seriously contemplating taking, such a step would increase global financial stability risks as other countries would surely follow and provide leverage ratio forbearance for their sovereign debt. The lesson of the Eurozone crisis of the early 2010s is that even in developed countries, sovereign debt crises can imperil economic growth and lead to challenging circumstances for banks, particularly if their holdings of sovereign debt become a fiscal backstop for profligate governments. *See* Marcia Millon Cornett, Otgontsetseg Erhemjamts & Jim Musumeci, *Were U.S. Banks Exposed to the Greek Debt Crisis? Evidence from Greek CDS Spreads*, 25 FIN. MKTS., INSTS. & INSTRUMENTS 75 (2016).

[54] *See* Kara M. Stein, Commissioner, Securities & Exch. Comm'n, Remarks Before the Peterson Inst. of Int'l Econ. (June 12, 2014), https://www.sec.gov/news/speech/remarks-peterson-institute-international-economics (arguing it is "time for the SEC to revise its reasoning for imposing capital requirements to reflect not only [the SEC's] historical objective to protect a firm's customers, but also reduce the risk to the entire financial system of a large broker-dealer's collapse.").

[55] Michelle W. Bowman, Member, Bd. of Governors of the Fed. Rsrv. Sys., *Remarks on the Economy and Bank Supervision and Regulation* 6-7, at the 2023 Ohio Bankers League "Main Event" (Nov. 7, 2023), https://www.federalreserve.gov/newsevents/speech/files/bowman20231107a.pdf.

[56] *See* Akila Quinio & Joshua Franklin, *US Banks Announce Big Shareholder Payouts as Fed Eases Stress Tests*, FIN. TIMES (July 1, 2025), https://www.ft.com/content/081f8752-8022-4c02-9d85-cea6a133ac8f.

SCB and signaled additional changes are forthcoming.[57] At the same time, Vice Chair Bowman has suggested the GSIB surcharge may also be weakened.[58] Again, forward-looking analysis that accounts for these anticipated changes would improve the Proposal's accuracy.

Indeed, as Vice Chair Bowman has noted when opposing the Basel III Endgame proposal, "accurate input can only be provided if regulators are clear about the desired end state of reforms and how they would work together to complement the framework . . ."[59] Contrary to her recommendations to her predecessor, however, the Proposal—her first major rulemaking as Vice Chair for Supervision—does not account for the totality of proposed and planned regulatory changes, and the prospective capital depletion that will occur when the eSLR is lowered, thereby establishing a lower minimum floor for bank capital when combined with other deregulatory measures. Instead, the other prospective deregulation goes unmentioned, resulting in an impact analysis that significantly underestimates the capital depletion likely to occur at the GSIBs—particularly at the consolidated holding company level.[60]

Further, the proposal chooses not to emphasize or broadly discuss the considerations around Treasury market intermediation and the agencies' Tier 1 leverage ratio requirement, which has applied to all US banks since the 1980s. The Tier 1 leverage requirement includes all on-balance sheet assets of banks in the denominator of the requirement, including U.S. Treasuries—but does not include off-balance sheet exposures like the SLR denominator. The Proposal includes an oblique reference to the fact that the changes to the SLR would "implicate" Section 171 of the Dodd-Frank Act, known as the "Collins Amendment" establishing the Tier 1 leverage ratio requirement.[61] But the proposal does not address the inconsistency between the emphasis on the impact of large banks continuing to meet the Tier 1 leverage ratio after the proposed changes to the SLR, other than to describe it as a "limiting factor."[62] There is, for example, no discussion of whether the Tier 1 leverage ratio requirement was binding on large firms prior to the SLR's effective date in 2018, and the potential implications of that fact for the present Proposal.

This omission is notable for two reasons. First, both former Vice Chair Quarles and Chair Powell have said in the past that the Collins Amendment constrains banks from absorbing safe

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[57] *See* Bd. of Governors of the Fed. Rsrv. Sys., Modifications to the Capital Plan Rule and Stress Capital Buffer Requirement, 90 Fed. Reg. 16,843 (Apr. 2025) (discussing proposed and anticipated modifications to the stress testing and SCB process).

[58] *See* Michelle Bowman, Vice Chair for Supervision, Bd. of Governors of the Fed. Rsrv. Sys, *Unintended Policy Shifts and Unexpected Consequences* 14, Remarks at the "Assessing the Effectiveness of Monetary Policy during and after the COVID-19 Pandemic" Rsrch. Conference (June 23, 2025), https://www.federalreserve.gov/newsevents/speech/files/bowman20250623a.pdf.

[59] Bowman, *supra* note 55, at 7.

[60] *See* Michael S. Barr, Member, Bd. of Governors of the Fed. Rsrv. Sys., Statement on Enhanced Supplementary Leverage Ratio Proposal (June 25, 2025), https://www.federalreserve.gov/newsevents/pressreleases/barr-statement-20250625.htm (noting that, "if the eSLR is reduced, the risk-based capital requirements could go down as well" as a result of regulatory changes or banks' management of their risk-weighted assets).

[61] 90 Fed. Reg., at 30,785 n.29.

[62] *E.g.*, 90 Fed. Reg., at 30,802.

assets during a "dash for cash."[63] Either Chair Powell and former Vice Chair Quarles were wrong about the binding nature of the Tier 1 leverage ratio then, or the Proposal omits any discussion of an important factor that bears on whether the Proposal will achieve one of its purported goals.

While it is true that the Tier 1 leverage ratio requirement may not be as binding as the SLR for certain GSIBs, which tend to have larger off-balance sheet exposures, the Proposal's lack of discussion of the role of the statutory leverage ratio requirements for large banks further illustrates the proposal's lack of empirical and well-reasoned basis. An agency should "display awareness that it is changing position . . . [and] show that there are good reasons for the new policy[.]"[64] To be sure, the "mere fact that an agency interpretation contradicts a prior agency position is not fatal."[65] However, a "reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy."[66] An agency's "[s]udden and unexplained change . . . may be 'arbitrary, capricious [or] an abuse of discretion[.]'"[67]

The second point is that, for some institutions, the Proposal's leverage ratio reductions may result in the SLR/eSLR being effectively lower than the generally applicable Tier 1 leverage ratio.[68] Importantly, section 165 of the Dodd-Frank Act (or "Dodd-Frank")—the authority under which the eSLR has been established—requires enhanced prudential standards to be "more stringent than the standards and requirements applicable to . . . bank holding companies that do not present similar risks to the financial stability of the United States[.]"[69] The text of this provision is clear: the SLR/eSLR, and any other enhanced prudential standards, cannot be weaker than the rules that apply to banks that are not subject to this provision. If the agencies have a different reading other than this straightforward interpretation, they should explain what it is and how the Proposal comports with this reading.

More broadly, the omissions, shortcomings and lack of rigorous analysis described above raise questions about the Proposal's basis, and whether the agencies' decisions are sufficiently

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[63] *See* Letter from Randal K. Quarles, Vice Chair for Supervision, Bd. of Governors of the Fed. Rsrv. Sys. to Sen. Mike Crapo, Chairman, Comm. on Banking, Hous., & Urb. Affs. 3 (Apr. 22, 2020), https://www.banking.senate.gov/imo/media/doc/Fed%20Response%20to%20Crapo%204.8.20%20Letter.pdf (stating that "[b]anking organizations are receiving significant inflows of customer deposits and the ability of these banking organizations to continue accepting significant deposits may become constrained due to Tier 1 leverage requirements."); *also* Jerome Powell, Chair, Fed. Rsrv., Remarks at Chair Powell's Press Conference 28 (July 29, 2020) (transcript available at https://www.federalreserve.gov/mediacenter/files/FOMCpresconf20200729.pdf) (observing that, during COVID-19, "what happen[ed] is, the banks run up against their leverage ratio, which is a non-risk-sensitive measure just of the amount of assets on the balance sheet. So people put cash in—on deposit at the banks, and they reached the limit of how—how much they could grow or made loans—you know, they—companies drew down loans and deposited cash" and therefore amending the Tier 1 leverage ratio "would give [the Fed] the ability to allow banks to grow their balance sheet and, in doing so, to serve their customers better.").

[64] *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

[65] *Smiley v. Citibank, N.A.*, 517 U.S. 735, 742 (1996).

[66] *FCC v. Fox Television Stations, Inc.*, 556 U.S., at 516.

[67] *Smiley v. Citibank, N.A.*, 517 U.S., at 742 (citing 5 U.S.C. § 706(2)(A)).

[68] *See* 90 Fed. Reg., at 30,799.

[69] 12 U.S.C. § 5365(a)(1)(A).

"based on a consideration of the relevant factors . . ."[70] The Supreme Court has been clear that agencies may not "entirely fai[l] to consider an important aspect of the problem" underlying its regulatory proposals.[71]

For the sake of legal prudence and intellectual consistency, the agencies should re-run the impact analysis *and* repropose the rule for additional comment before moving to finalizing it. The impact analysis must include all previewed changes to the SCB, GSIB surcharge, Basel III Endgame, total loss-absorbing capacity (TLAC), and other regulatory capital rules that the Vice Chair for Supervision plans to pursue. Any final rule should also include an analysis of the Tier 1 leverage ratio requirement along with projected Treasury holdings, as recommended by Governor Kugler in a question to Board staff during the open meeting on the Proposal.

V. The Proposal incorporates extra-statutory considerations.

The Proposal at issue is part of a broader effort known as "regulatory tailoring." Current and former Fed leadership has defined tailoring as "try[ing to] make sure that regulation is no more burdensome than it needs to be,"[72] adopting the view that tailoring is an exercise in reducing burden and increasing "efficiency."[73] Vice Chair Bowman has specifically referred to the Proposal as an example of just such an efficiency-focused proposal.[74] In truth, tailoring has not been a value-neutral proposition about right-sizing regulation. One former Fed policymaker describes it as a "kind of low-intensity deregulation, consisting of an accumulation of non-headline-grabbing changes."[75]

The concepts of burden and efficiency are nowhere to be found in the text of either Dodd-Frank or 2018's Economic Growth Regulatory Reform, and Consumer Protection Act (EGRRCPA).[76]

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[70] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S., at 43.

[71] *Id.*

[72] *Monetary Policy and the State of the Economy: Hearing Before the H. Comm. on Fin. Serv.*, 115th Cong., at 21 (2018) (statement of Jerome H. Powell, Chair, Bd. of Governors of the Fed. Rsrv. Sys.), https://financialservices.house.gov/uploadedfiles/115-76.pdf.

[73] *See* Randal K. Quarles, Member, Bd. of Governors of the Fed. Rsrv. Sys., *Between the Hither and the Farther Shore: Thoughts on Unfinished Business* 1 (Dec. 2, 2021), https://www.federalreserve.gov/newsevents/speech/files/quarles20211202a.pdf ("I came to the Fed in order to take on that task of making the system . . . more simple, more efficient, more transparent."); *also* Jeanna Smialek, *Meet the Man Loosening Bank Regulation, One Detail at a Time*, N.Y. TIMES (Nov. 29, 2019), https://www.nytimes.com/2019/11/29/business/economy/bank-regulations-fed.html (quoting the Fed's former Vice Chair for Supervision, Randal Quarles, that "[o]ne of the objectives of the system should be an efficient system . . . . I think we've moved not too quickly, but quite quickly, in adjusting—again, with an eye toward efficiency—some aspects of post-crisis regulation.").

[74] *See* Bowman, *supra* note 47, at 12-16.

[75] Daniel K. Tarullo, *Taking the Stress Out of Stress Testing* 3, Remarks at Ams. for Fin. Reform Conference on Big Bank Regul. under the Trump Admin. (May 21, 2019), https://ourfinancialsecurity.org/wp-content/uploads/2019/05/Tarullo-AFR-Talk.pdf.

[76] The law's tailoring language is even less binding than it may appear, as the Board can also consider "any other risk-related factors that [it] deems appropriate." *See* 12 U.S.C. § 5365(a)(2)(A). The Board's discretion was further reinforced by EGRRCPA's savings clause, which states that "nothing . . . shall be construed to limit . . . the authority"

They have been read into the statute by policymakers and placed on an even footing with the statutory goal of preserving financial stability. Both the text of Dodd-Frank and its legislative history make clear that the original tailoring factors are meant to enumerate some specific risks that should be accounted for when crafting enhanced prudential standards and serve as the basis upon which standards should *increase in stringency*.[77]

Efficiency is not the only extra-textual consideration embedded in the Proposal. Nothing in section 165 of Dodd-Frank tells the Board to consider Treasury market functioning in establishing its capital and leverage requirements. Treasury Department officials have also suggested publicly that the agencies' proposal reflects the Treasury Department's views, which encompass "broader range of considerations beyond the scope of agencies' responsibilities, like tradeoffs between growth and the structure of the financial system."[78] Again, none of these considerations are expressly permitted by statute.

Chair Powell has been clear that, in exercising its authorities, the Fed should—indeed, *must*—"stick to [its] statutory goals and authorities, and . . . resist the temptation to broaden [its] scope to address other important social issues of the day."[79] To consider a broader set of considerations "however worthy, without a clear statutory mandate would undermine the case for [Fed] independence."[80] As Chair Powell notes, regulatory independence "helps ensure that the public can be confident that . . . supervisory decisions are not influenced by political considerations."[81]

Incorporating extra-legal considerations imposed on the agencies by the current Treasury Department runs afoul of the text of relevant statutes the agencies are responsible for administering[82] and the principles of agency independence articulated by Chair Powell.

Of more practical relevance, these considerations may expose the Proposal to legal risk. After *Loper Bright*, the "role of the reviewing court . . . is . . . to independently interpret the statute and effectuate the will of Congress . . ."[83] In particular, agency actions may be arbitrary and

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of the Board. Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub L. No. 115-174, § 401(b), 132 Stat. 1357 (2018) (codified as amended at 12 U.S.C. § 5365 note (Construction of 2018 Amendment)).

[77] *See* S. REP. NO. 111-176, at 50 (2010) (Dodd-Frank's section 165 "enumerates the factors that the Board of Governors shall consider in setting [enhanced prudential] standards."); *also* Mark Van Der Weide, *Implementing Dodd–Frank: Identifying and Mitigating Systemic Risk*, 36 J. ECON. PERSP. 108, 110 (2012) (observing the Board is "required to have the framework increase in proportion to . . . the 'systemic footprint' of firms, that is, the size, interconnectedness, and complexity of firms in that set of BHCs above $50 billion.").

[78] Victoria Guida, *A New Era for Financial Regulators*, POLITICO Morning Money (June 26, 2025), https://www.politico.com/newsletters/morning-money/2025/06/26/a-new-era-for-financial-regulators-00425197.

[79] Jerome H. Powell, Chair, Bd. of Governors of the Fed. Rsrv. Sys., *Central Bank Independence and the Mandate—Evolving Views* 2, Remarks at the Symposium on Central Bank Independence (Jan. 10, 2023), https://www.federalreserve.gov/newsevents/speech/files/powell20230110a.pdf.

[80] *Id.*

[81] *Id.*, at 3.

[82] In addition to the Dodd-Frank Act, the International Lending Supervision Act (ILSA) is clear that its provisions are meant to "*strength[en]* the bank regulatory framework" in order to "assure that the economic health and stability of the United States . . . shall not be adversely affected or threatened . . ." 12 U.S.C. § 3901(a) (emphasis added).

[83] 144 S. Ct., at 2263.

capricious where the agency has "relied on factors which Congress has not intended it to consider . . ."[84] In this legal environment, the use of non-statutory considerations in agency policymaking potentially weakens the Proposal's legal basis.

VI. Specific aspects of the Proposal are plainly deregulatory and lack sufficient justification.

The Proposal makes several design choices that are not well explained, and that run contrary to practical experience and established principles of macroprudential policy.

The first such example is the Proposal's reliance on GSIBs' Method 1 risk-based capital scores to determine the applicable eSLR buffer. The rationale proffered in the Proposal is that Method 1 is preferable because it is lower—that is, relying on the Method 2 surcharges to scale the eSLR requirement would be insufficiently deregulatory.[85] This poorly explained decision, based upon flawed reasoning, contradicts the agencies' rationale for creating the Method 2 score in the first place, and requiring GSIBs to calculate both their Method 1 and Method 2 scores and adhere to the greater of the two scores. At the time, the Fed explained that the Method 2 score is appropriate because the "capital surcharge imposed on a GSIB should be designed to address the GSIB's susceptibility to failure, and increasing a GSIB's surcharge based on short-term wholesale funding use . . . is a more effective means of requiring a GSIB to internalize the externalities it imposes on the broader financial system and reduce its probability of failure."[86]

If the agencies were to use the Method 2 score, however, one GSIB—JPMorgan Chase (JPMC)—would see its eSLR increase.[87] In addition to providing this special benefit to JPMC, the Method 1 score is more permissive for all GSIBs because the factor that results in it being lower than Method 2, the Substitutability category, is capped.[88] Under Method 1, four U.S. GSIBs are currently subject to the Substitutability category maximum score, meaning that, in practical terms, increased activity or volume of, for example, assets under custody, payments activity and underwriting by those banks does not and will not increase those firms' Method 1 scores. In other words, the use of the Method 1 score means the banks that provide the most critical services, for which there are fewer ready substitutes, will not see their eSLRs increase commensurately with their increasing systemic importance.

The Proposal also fails to recognize the regulatory dispensation provided in section 402 of EGRRCPA. This provision statutorily excludes deposits at the Fed and certain other foreign central banks that are "linked to fiduciary or custodial and safekeeping accounts" from the

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[84] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S., at 43.

[85] *See* 90 Fed. Reg., at 30,807 (observing that "[b]ecause the method 2 surcharges are currently greater than or equal to method 1 surcharges for all GSIBs, this alternative would reduce the calibration of the eSLR standard for GSIBs by much less than the proposal" and so "would not fully achieve the objectives of the proposal.").

[86] Bd. of Governors of the Fed. Rsrv. Sys., Risk-Based Capital Guidelines: Implementation of Capital Requirements for Global Systemically Important Bank Holding Companies, 79 Fed. Reg. 75,473, 75,479 (Dec. 18, 2014).

[87] JPMorgan Chase's GSIB surcharge as of 2024 is 4.5 percent, meaning its surcharge for eSLR purposes would be 2.25 percent, and its total eSLR would be 5.25 percent. *See* BD. OF GOVERNORS OF THE FED. RSRV. SYS., LARGE BANK CAPITAL REQUIREMENTS 4 (Aug. 2024), https://www.federalreserve.gov/publications/files/large-bank-capital-requirements-20240828.pdf.

[88] *See* 79 Fed. Reg., at 75,494.

denominator of the SLR and eSLR,[89] a change that especially benefits the two US GSIBs that focus on custodial services. By using the Method 1 score, these two GSIBs will see their eSLR buffers reduced from 2 percent to 0.5 percent because of the cap on Substitutability. At the same time, they benefit from a bespoke denominator calculation that excludes central bank reserves. The Proposal makes no mention of why these banks require the deregulation provided in the Proposal in the numerator of the eSLR *above and beyond* the deregulation they have already received under EGRRCPA in the denominator.

The fact that this arrangement was not noted in the Proposal is concerning and the agencies should account for, and explain, this forbearance in a comprehensive economic analysis prior to the issuance of the final rule. This analysis is relevant because it is not clear whether the 3.5 percent eSLR applicable to the custody banks, which are at the low end of the GSIB scale, will be more binding than the generally applicable 4 percent Tier 1 leverage ratio. The lack of any analysis of this specific situation is problematic for reasons discussed in section IV, above.

More generally, the use of GSIB surcharges as the basis for the eSLR buffer introduces an element of complexity and increases the risk that banks could game their requirements. Both Fed researchers and the Basel Committee have found that banks engage in certain types of behavior to reduce their GSIB scores without meaningfully reducing their systemic footprints, including the use of derivatives to lay off risk and engage in "window dressing" around regulatory reporting periods.[90] A companion proposal to the Basel 3 Endgame proposal had sought to address some of the vulnerabilities in the GSIB surcharge framework,[91] but that proposal was inexplicably never finalized.

The Proposal appears to use the Method 1 surcharge precisely because, not in spite, of the fact that it does not fully reflect a GSIB's systemic importance. And, again, Vice Chair Bowman has public signaled interest in further revising down the GSIB surcharges. Rather than weakening them, the Board should instead address the *shortcomings* in the GSIB surcharge framework prior to the finalization of any rule that would import Method 1 or Method 2 into the leverage ratio requirement framework.

The OCC also plans to use the Proposal to lift the threshold for the eSLR's applicability to national banks, from those with $700 billion in total assets to instead to apply to any national bank subsidiary of a holding company that has been identified as a GSIB.[92] There are four large regional banks that are approaching or are somewhat close to this threshold that will benefit from this deregulation. This aspect of the Proposal runs counter to recent experiences

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[89] Pub. L. No. 115-174, at § 402(b)(2)(B), 132 Stat. 1359 (codified as amended at 12 U.S.C. § 1831o note).
[90] *See* Jared Berry, Akber Khan & Marcelo Rezende, *How Do Global Systemically Important Banks Lower Capital Surcharges?*, 67 J. FIN. SVCS. RSRCH. 73 (2025); *also* Matthew Naylor, Renzo Corrias & Peter Welz, *Banks' Window-Dressing of the G-SIB Framework: Causal Evidence from a Quantitative Impact Study* (Basel Comm. on Bank Supervision Working Paper No. 42) (Mar. 2024), https://www.bis.org/bcbs/publ/wp42.pdf.
[91] *See* Bd. of Governors of the Fed. Resrv. Sys., Regulatory Capital Rule: Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), 88 Fed. Reg. 60,385 (Sept. 1, 2023).
[92] *See* 90 Fed. Reg., at 30,790-91.

demonstrating the financial stability implications of the failure of large regional banks—including banks well below $700 billion in assets.

As I have noted previously, the 2017-2021 tailoring effort that weakened, and in some cases removed, regulatory and supervisory requirements for large regional banks was undergirded by a belief that the failure of those banks would not have broader systemic effects.[93] The 2023 regional banking stress suggests that the capital requirements contained in the existing tailoring framework do not accurately reflect the risks to the US financial system posed by banks in Categories II, III and IV—particularly as they increase in asset size without exceeding other thresholds contained in the tailoring framework.[94] The capital requirements for such large regional banks are relatively static, meaning that many of the largest non-GSIB domestic banks have the same risk-based capital requirements as much smaller and less complex banks.[95] Because of the important role that large regional banks play in the economy and in their communities, it is critical that they have capital commensurate with their risk.[96]

Unfortunately, the Proposal's change to the application of the eSLR to national banks conflicts with the idea that capital requirements should be tailored to banks' potential financial stability risks, especially considering the experiences of 2023.

In addition to these financial stability implications, the Proposal's applicability to insured depository institutions, taking their eSLR buffers from 3 percent down to one-half their Method 1 score, could reduce lending to businesses and households. The estimated $210 billion depletion at the insured depository institution subsidiary will in all likelihood lead to a reduction in GSIBs' *lending* capacity—up to as much as $2.7 trillion by some estimates.[97] Even in the unlikely scenario that capital remains within the consolidated organization instead of being distributed to shareholders, transferring capital from the insured depository institution to the broker-dealer reduces lending capacity available for businesses and households. Shifting resources to the broker-dealer and reducing lending could affect economic growth in ways that the Proposal's impact analysis does not acknowledge, let alone analyze.

VII. The Proposal ignores alternatives that would address the concerns ostensibly motivating the proposal without undermining financial stability.

The agencies considered four alternatives to the Proposal, all of which are deregulatory in nature. The Proposal fails to consider reasonable alternative proposals that reflect the commonsense insight that making GSIBs more—not less—resilient will address the inability of GSIB-affiliated dealers during times of market stress. Such consideration is inconsistent with

[93] *See* Steele, AFR Remarks, *supra* note 2.
[94] *Id.*
[95] *Id.*
[96] *Id.*
[97] *See* Sheila Bair, *Wall Street to Trump Main Street with New Bank Rules*, FIN. TIMES (July 18, 2025), https://www.ft.com/content/553c0b1a-33d0-4b6c-a048-3a11064f5d3b.

Office of Management and Budget Circular A-4, which urges agencies to consider alternatives that are both *more* and less stringent.[98]

There is a substantial body of literature demonstrating that banks with more resilient funding are better positioned to lend during market downturns.[99] Research from Board economists finds that overall system-wide capital levels remain below the socially optimal levels, supporting the case for higher capital requirements.[100] Recent research has shown that pairing both robust capital and leverage ratios can mitigate the risk-seeking incentives that can occur with the leverage ratio alone.[101] If the agencies are concerned about the eSLR becoming the binding constraint for GSIBs, one option is to increase risk-based capital requirements to offset this dynamic.[102] Unfortunately, the agencies' previous deregulatory tailoring and current course of action diluting both the eSLR and SCB flies in the face of this evidence.

During the previous period of deregulatory tailoring, the financial sector enjoyed record earnings that could have been used to build capital buffers that could then have been deployed during the periods of tightening market conditions.[103] Instead, leading up to the 2019 Treasury market disruption and the 2020 COVID stress, policymakers overseeing the capital planning process established a clear policy against countercyclical policy and in favor of banks distributing most, if not all, of their profits to shareholders.[104] As a result, in the years preceding

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[98] *See* OFF. OF MGMT. AND BUDGET, CIRCULAR NO. A-4, at § 6.d (Nov. 2023).

[99] *E.g.*, Nada Mora, *Can Banks Provide Liquidity in a Financial Crisis?*, 95 FED. RSRV. BANK OF K.C. ECON. REV. 31 (2010); *also* David Aikman, Andrew G. Haldane, Marc Hinterschweiger & Sujit Kapadia, *Rethinking Financial Stability* 14-15 (Bank of Eng., Working Paper No. 712) (2018), https://www.bankofengland.co.uk/working-paper/2018/rethinking-financial-stability (finding that, on average, each additional percentage point of pre-crisis capital boosted banks' lending over the subsequent decade by more than 20 percent).

[100] *See* Simon Firestone, Amy Lorenc & Ben Ranish, *An Empirical Economic Assessment of the Costs and Benefits of Bank Capital in the United States*, 101 FED. RSRV. BANK OF ST. LOUIS REV. 203 (2019) (finding an optimal risk-based capital ratio between 13 percent and 26 percent); *also* Wayne Passmore & Alexander H. von Hafften, *Are Basel's Capital Surcharges for Global Systemically Important Banks Too Small?* (FEDS Working Paper No. 2017-021) (2017) (finding GSIB surcharges should be raised 375 to 525 basis points (bps) for all GSIBs, include a short-term funding metric that further boosts capital surcharges 175 to 550 bps for certain GSIBs, and create an additional lower bucket with a capital surcharge of 225 bps for very large banks that are not currently subject to any GSIB surcharge).

[101] *See* Jonathan Acosta-Smitha, Michael Grill & Jan Hannes Lang, *The Leverage Ratio, Risk-taking and Bank Stability*, 74 J. FIN. STABILITY 100833 (2024).

[102] However, some research suggests increasing the leverage ratio can help offset banks' risk-taking incentives. *See* Ilkka Kiema & Esa Jokivuolle, *Does a Leverage Ratio Requirement Increase Bank Stability?*, 39 J. BANKING & FIN. 240 (2014).

[103] *See* Jesse Hamilton, *Banks Crushed Profit Record With $237 Billion in 2018, FDIC Says*, BLOOMBERG (Feb. 21, 2019), https://www.bloomberg.com/news/articles/2019-02-21/banks-crushed-profit-record-with-237-billion-in-2018-fdic-says; *also* Ken Sweet, *Banks Made $233.1 Billion in Profits in 2019, Regulator Says*, ASSOC. PRESS (Feb. 25, 2020), https://apnews.com/article/3db9cc9c6ffcc083a5f57cb122a5e937.

[104] *See* Randal K. Quarles, Vice Chair for Supervision, Bd. of Governors of the Fed. Rsrv. Sys., *A New Chapter in Stress Testing* 6, Remarks at the Brookings Inst. (Nov. 9, 2018), https://www.federalreserve.gov/newsevents/speech/files/quarles20181109a.pdf (stating that, "in our current world in which a healthy and profitable banking system is seeking to maintain its capital levels rather than continue to increase them, a bank will appropriately and safely tend to distribute much or all of its income in any given year.").

the COVID-19 crisis, and even during the early months of the pandemic, GSIBs' shareholder payouts exceeded their net income.[105]

Rather than doubling down on this flawed approach, a better option for addressing financial market fragility would be to increase banks' resiliency by making risk-based capital and leverage rules more countercyclical so banks build up capital levels when the economy is growing and are then able to absorb large inventories of securities and other assets when they are being sold during times of market stress. The element of countercyclicality is an important, and unrealized, component of post-financial crisis macroprudential regulation generally, and capital specifically.[106] Indeed, Dodd-Frank amended longstanding capital requirement authorities to include the goal of countercyclicality in bank capital standards.[107] In failing to fashion countercyclical rules, and instead pursuing pro-cyclical deregulation, the agencies are both ignoring a Congressional directive and missing an opportunity to increase the resilience of GSIBs at the peak of the economic cycle and lessen their incentives to pull back on lending during a downturn.

In addition to increasing regulatory capital and leverage ratios, the agencies should pursue a more proactive, anticipatory approach to dividend restrictions and capital raising. Such policies have a demonstrated track record of reducing the likelihood and cost of bank failures dating back to the Savings and Loan Crisis of the 1980s.[108] Permissive bank dividend policies prior to the Global Financial Crisis led to a significant depletion of bank capital, and more proactive regulatory intervention could have reduced the need for future bailout assistance.[109] Finally, the agencies, especially the Fed, can work to further encourage banks to use their capital and

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[105] *See* FIN. STABILITY OVERSIGHT COUNCIL, *supra* note 17, at 80 (total capital distributions at U.S. GSIBs "were close to 100 percent of the net income available to common equity in 2018 and exceeded 100 percent in 2019" and payout rates in the first quarter of 2020 "were substantially above 100 percent of net income."); *also* Lisa Lee & Shahien Nasiripour, *Bank Dividends in Peril With Crisis Veterans Warning of Trouble*, BLOOMBERG (June 24, 2020) (the four largest US GSIBs made $615.2 billion in capital distributions from the beginning of 2017 through the first quarter of 2020), https://www.bloomberg.com/news/articles/2020-06-24/bank-dividends-in-peril-with-crisis-veterans-warning-of-trouble.

[106] *See* Daniel K. Tarullo, *Time-Varying Measures in Financial Regulation*, 83 L. CONTEMP. PROBS. 1 (2020); *also* Jeremy C. Kress & Matthew C. Turk, *Rethinking Countercyclical Regulation*, 56 GA. L. REV. 495 (2022).

[107] *See* Pub. L. No. 111-203, § 616, 124 Stat. 1615 (2010) (codified at 12 U.S.C. §§ 1844(b), 3907(a)(1)). There is also an optional countercyclical capital buffer (CCyB), a macroprudential policy tool meant to "increase during periods of rising vulnerabilities in the financial system and reduce when vulnerabilities recede." 12 C.F.R. Appx. A to Part 217. The Board has never used the CCyB. *See* Kress & Turk, *supra* note 106, at 502.

[108] *See* George Hanc, *The Banking Crises of the 1980s and Early 1990s: Summary and Implications*, in 1 FED. DEPOSIT INS. CORP., HISTORY OF THE EIGHTIES: LESSONS FOR THE FUTURE 3, 66–68 (1997).

[109] *See* Eric S. Rosengren, President & Chief Exec. Officer, Fed. Rsrv. Bank of Bost., *Dividend Policy and Capital Retention: A Systemic "First Response"*, Remarks at the Rethinking Central Banking Conference (Oct. 10, 2010), https://www.bostonfed.org/news-and-events/speeches/dividend-policy-and-capital-retention-a-systemic-first-response.aspx.

liquidity buffers and access the discount window and other sources of liquidity during times of market stress.[110]

We know that capital and leverage ratios' benefits outweigh their costs, especially when they account for their overall benefits to society.[111] Tier 1 leverage ratios reduce the likelihood and cost of bank runs, particularly when market participants lack other reliable indicators of banks' solvency.[112] As then-Fed Governor Jerome Powell observed, post-Global Financial Crisis financial reform "has, by design, increased the costs of balance sheet usage and in doing so has encouraged a smaller footprint among these firms and their market-making activities[,]" but "the same regulation has also made the core of the financial system much safer and sounder and much more resilient."[113] He rightly concluded that "some reduction in market liquidity is a cost worth paying in helping to make the overall financial system significantly safer."[114]

There is also historical precedent for such an approach. The failure of some dealers in government securities in the early 1980s prompted Congress to enact the Government Securities Act of 1986, imposing standards for solvency, customer protection, securities custody, and books and records for government securities dealers, including primary dealers.[115]

Observers often warn that regulating GSIBs causes activities to "migrate" to nonbank companies, exacerbating the shadow banking problem. GSIBs' systemic importance suggests that there will be few ready and comparable substitutes available for activities to migrate to, meaning that some activity would more likely dissipate rather than migrate. Regardless, taking a functional, rather than formalistic, approach to financial intermediation activities is an important goal of macroprudential regulation. Transactions that are equivalent should be subject to the same prudential regulations regardless of formal legal classification.[116] To the extent that regulatory gaps are a concern, the Board and other financial regulatory agencies have relevant authorities they can use to impose activities-based rules, including:

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[110] *See* Elizabeth Duncan, Akos Horvath, Diana Iercosan, Bert Loudis, Alice Maddrey, Francis Martinez, Timothy Mooney, Ben Ranish, Ke Wang, Missaka Warusawitharana & Carlo Wix, *COVID-19 as a Stress Test: Assessing the Bank Regulatory Framework*, 61 J. FIN. STABILITY 101016 (2022).

[111] *See* Robin Greenwood, Samuel G. Hanson & Jeremy C. Stein, *The Federal Reserve's Balance Sheet as a Financial-Stability Tool* 380 (2016), https://scholar.harvard.edu/files/stein/files/2016steingreenwoodhanson.pdf; *also* Aikman *et al.*, *supra* note 89; *also* FED. RSRV. BANK MINNEAPOLIS, THE MINNEAPOLIS PLAN TO END TOO BIG TO FAIL 50-51 (2017), https://www.minneapolisfed.org/~/media/files/publications/studies/endingtbtf/the-minneapolis-plan/the-minneapolis-plan-to-end-too-big-to-fail-final.pdf?la=en.

[112] *See* Steele, AFR Remarks, *supra* note 2; *also* Jean Dermine, *Basel III Leverage Ratio Requirement and the Probability of Bank Runs*, 53 J. BANKING & FIN. 266 (2015).

[113] *See Examining Current Trends and Changes in the Fixed-Income Markets*, *supra* note 13, at 6.

[114] *Id.*

[115] *See* S. Rep. No. 103-109, at 7-8, 103d Cong., 1st Sess. (1993).

[116] *E.g.*, Andrew Metrick & Daniel K. Tarullo, *Congruent Financial Regulation* (Prepared for the Brookings Papers on Economic Activity Conference, Spring 2021) (2021), https://www.brookings.edu/wp-content/uploads/2021/03/BPEASP21_Metrick-Tarullo_conf-draft.pdf.

- The Board can use Securities Exchange Act authorities to revise margin requirements for certain securities transactions;[117]
- The Treasury Department can update the capital adequacy standards for *all* dealers in government securities;[118] and
- The Securities and Exchange Commission can do more to regulate principal trading firms that have become significant, and highly levered, players in the Treasury markets.[119]

Finally, the FSOC can designate any nonbank financial companies that achieve levels of systemic importance comparable to GSIBs due to activity "migration" for special enhanced supervision and macroprudential regulation by the Board, as envisioned by the Dodd-Frank Act.[120]

VIII. The Proposal lacks a coherent overarching theory of the relationships between Treasury markets, the support banks receive from the government, and banks' public obligations.

Vice Chair Bowman recently argued that the deregulation contained in the Proposal will reduce the need for the Fed to intervene in Treasury markets during times of stress.[121] It is true that the Fed has expanded its role in financial markets by creating a standing repo facility (or "SRF") and reverse repo facility (or "RRP") to help manage its extraordinary monetary policy measures and address financial stability concerns,[122] and that these interventions have significant implications. If the desire is for less public support for the Treasury markets, that is one thing. But it is inconsistent to argue against *direct* public intervention in the US sovereign debt market, while at the same time increasing the likelihood public authorities will have to intervene to support the *banking system* by virtue of this deregulatory Proposal.

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[117] *See* 15 U.S.C. §§ 78g, 78w. Margin rules restrict the purchase of securities using borrowed money, thereby limiting the buildup of leverage in, and excessive growth of, certain financial transactions. The Board has used these authorities to promulgate Regulations T, U, and X restricting the extension of credit by broker-dealers, banks, and other lenders. In more recent years, Fed officials raised the possibility of using this authority to regulate certain securities financing transactions, however, these rules have never materialized. These rules could help to address the leverage that dealer banks are supplying to their nonbank clients, making Treasury markets more fragile. *See* Lina Lu & Jonathan Wallen, *Negative Treasury Haircuts* (May 2, 2025) *available at:* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5239611.

[118] *See* 15 U.S.C. § 78o-5(b)(1)(A).

[119] *See* Yadav & Younger, *supra* note 5, at 563.

[120] *See* 12 U.S.C. § 5323.

[121] *See* Bowman, *supra* note 3, at 13-14.

[122] Josh Frost, Lorie Logan, Antoine Martin, Patrick McCabe, Fabio Natalucci & Julie Remache, *Overnight RRP Operations as a Monetary Policy Tool: Some Design Considerations* (FEDS Working Paper No. 2015-010) (2015), https://www.federalreserve.gov/econresdata/feds/2015/files/2015010pap.pdf; *also* Fed. Open Mkt. Comm., Standing Repurchase Agreement Facility Resolution Approved July 27, 2021, https://www.federalreserve.gov/monetarypolicy/files/FOMC_StandingRepoFacilityResolution.pdf. Usage of the RRP facility grew from about $130 billion at the beginning of May 2021 to over $1 trillion by the end of July 2021. *See* data on file with the author, compiled from the FRBNY's publicly available historical data downloaded from: https://apps.newyorkfed.org/markets/autorates/temp.

Macroprudential regulations generally—and the eSLR specifically—seek to ensure GSIBs internalize the costs they impose on society when they are unable to fulfill their core financial intermediation functions.[123] The tailoring of regulations, lack of reliable GSIB intermediation, and expansive government support are interrelated attributes of a financial stability policy framework that fails to achieve this goal. Permitting GSIBs to extract wealth from their firms in the form of executive compensation and shareholder payouts during times of stability, while exercising a "put" to the central bank during market stress, raises issues of moral hazard and exacerbates the "too big to fail" (TBTF) problem. These are costs that the Proposal should, but does not, account for.

Another option available to the agencies is to devise a system of mandates or obligations requiring dealer banks to stand ready to serve as purchasers of last resort, not just for primary issuances of Treasuries, but also in the secondary markets.[124] Purchasing Treasury securities has long been a foundational part of banking in the US. The National Bank Act was passed to create federal instrumentalities, in the form of national banks, to purchase US Treasury obligations to finance the Union's efforts in the Civil War. Later, banks were exempt from the Glass-Steagall Act separations between commercial banking and securities dealing to allow them to buy Treasuries the government issued to finance World Wars I and II. In the intervening decades, that sense of patriotic duty has given way to a fixation on shareholder returns, meaning banks prioritize returning capital relief to their shareholders in the form of dividends and buybacks.

The Proposal overlooks alternative and more targeted interventions for addressing Treasury market stress. Invoking the buffer system remains a first, albeit still largely untested, option. The SLR interim final rule from April 2020, offering *temporary* relief paired with capital distribution restrictions, remains another option if extreme Treasury market dislocations arise. Further, the Federal Open Market Committee (or "FOMC") undertook unprecedented purchases of U.S. Treasury securities as part of its effort to stabilize financial markets and support the economy at the onset of COVID-19 and into the pandemic. The FOMC's approach and success at stemming the Treasury market dysfunction during COVID-19 reinforces the lesson that permanent regulatory forbearance is not the most desirable path to addressing issues with the broader Treasury market.

So, while direct government mandates and interventions are not ideal in many respects,[125] if accompanied by *ex ante* regulation, these policies are nonetheless preferable to a macroprudential framework that privatizes profits and socializes losses.

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[123] *See* Van Der Weide, *supra* note 77, at 110; *also* Off. of the Comptroller of the Currency, Bd. of Governors of the Fed. Rsrv. Sys. & Fed. Deposit Ins. Corp., Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and Their Subsidiary Insured Depository Institutions, 84 Fed. Reg. 24,528, 24,529 (May 1, 2014) (stating the eSLR "would place additional private capital at risk, thereby reducing the risks for the Deposit Insurance Fund while improving the ability of [GSIBs] to serve as a source of credit to the economy during times of economic stress.").

[124] *See* Pradeep K. Yadav & Yesha Yadav, *The Failed Promise of Treasuries in Financial Regulation*, 97 SO. CAL. L. REV. 1349, 1407-09 (2024).

[125] *But see* Anil K Kashyap, Jeremy C. Stein, Jonathan L. Wallen & Joshua Younger, *Treasury Market Dysfunction and the Role of the Central Bank* (Prepared for the Brookings Papers on Economic Activity Conference, Spring 2025)

IX. The Proposal has not secured broad support.

When the agencies considered the Basel III Endgame proposal, Chair Powell established a standard that the final rulemaking should achieve "broad support at the Fed and in the broader world."[126] The SLR Proposal passed the Board of Governors by the same 5-2 margin as the Basel 3 Endgame proposal that ostensibly lacked the requisite breadth of support.

There were no dissents from the FDIC Board, but that is only because the President has not nominated any members of the FDIC Board who would defend strong leverage requirements (of either party, but most likely Democratic Party nominees to the Vice Chair and Director currently unfilled FDIC Board seats). If there are no board members from the minority political party, there is obviously no one to dissent. This absence should not be construed as support.

In addition, Governor Cook and Vice Chair Jefferson specifically cited the importance of the public comment process prior to considering any final rule. In particular, Governor Cook noted the importance of assessing the cumulative effect of the proposed changes to the capital framework, which, as described above, are significant and are neither addressed nor acknowledged in the Proposal's impact analysis.

With respect to the "broader world" as Chair Powell noted, it may be the case that most banking industry commenters from large banks support the Proposal. It is, however, likely that academic commenters, reform groups, other public interest-minded commenters, and potentially community banking organizations[127] will have strong concerns with the Proposal. The comment letters from public interest groups and individuals as a group should carry particular weight with the agencies because your agencies have a duty to represent and protect the interests of the *public*, not the industry. On that point, the agencies should also be aware that, in general, financial deregulation like that contained in the current Proposal is broadly unpopular.[128]

(2025), https://www.brookings.edu/wp-content/uploads/2025/03/4_Kashyap-et-al.pdf (making the case for the Federal Reserve to engage in hedged Treasury purchases during periods of market stress).

[126] Pete Schroeder, *Powell Says "Broad" Overhaul Coming for Basel Bank Capital Proposal*, REUTERS (Mar. 6, 2024), https://www.reuters.com/markets/us/powell-says-he-expects-broad-material-changes-basel-proposal-2024-03-06/.

[127] Indeed, community banks have expressed concerns with the most recent Board proposal to weaken the supervisory stress test, arguing the failure of large banks during the Global Financial Crisis exacerbated the economic conditions for smaller banks, and increased their required contributions to the Deposit Insurance Fund. *See* Letter from Amy Ledig, Vice President, Capital, Acct., and Fin. Pol'y, Indep. Cmty. Bankers of Am. to Ann Misback, Sec'y, Bd. of Governors of the Fed. Rsrv. Sys., June 17, 2025, *available at:* https://www.federalreserve.gov/apps/proposals/comments/FR-2025-0026-01-C06.

[128] *See* Bryan Bennett, *Most Americans Support More Bank Regulation*, Navigator Rsrch. (2023), https://navigatorresearch.org/most-americans-support-more-bank-regulation/; *also* Claire Williams, *Polling Suggests Support among Voters for Harsher Wall Street Messaging*, Morning Consult (2018), https://pro.morningconsult.com/articles/polling-suggests-support-among-voters-for-harsher-wall-street-messaging.

In short, the Proposal lacks the requisite broad support Chair Powell established as a standard for regulatory rulemaking, and thus should not be finalized unless and until it achieves broad support across your agencies and the broader public.

X. The comment period is too short for such a consequential policy change and should be extended.

Finally, the agencies have set the deadline for commenting on the proposal as August 26, 2025. This date is 60 days from the date of the agencies' board meetings and press release. Sixty days is too short a period for a complex proposal, particularly one that reduces requirements for large banks and increases the likelihood of solvency issues, with the associated costs for the Fed, the Deposit Insurance Fund, and US taxpayers.

In addition, it is highly unusual for a comment deadline to be set relative to a board meeting and public release. More often, the deadline is set relative to a proposal's publication in the Federal Register. There is no good reason to depart from longstanding practice and doing so creates the impression that the agencies are seeking to make it harder for less organized and well-resourced entities to comment on the Proposal.

In the interest of securing feedback consistent with Chair Powell's standard of "broad support . . . in the broader world"[129] the agencies should extend the comment period.

* * *

In closing, I would emphasize two high-level points.

First, deregulation won't remedy any concerns about the Treasury market, but it will make the financial system more fragile. Better capitalized banks don't just absorb demand for Treasury bonds, they can also keep lending during economic downturns to businesses and households, which may soon be needed due to President Trump's erratic economic policies. If capital requirements become too weak, US taxpayers could eventually be called upon to bail out overleveraged Wall Street banks and their executives and shareholders to avoid a financial crisis.

Second, it is important to be humble and realistic about what bank regulations can and cannot accomplish. I would observe that the *real* cure for what ails the Treasury market has nothing to do with financial plumbing and cannot be solved by bank regulations. Ultimately, for the US Treasuries to regain their status as the unquestioned global safe haven and reserve asset, the US government must regain its role as a reliable international partner committed to the rule of law that respects the independence of financial agencies—especially the central bank. Inciting more financial instability through chaotic economic policies and deregulation will only worsen the current situation.

[129] Schroeder, *supra* note 126.

Thank you for considering my views on this important matter.

Sincerely,

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