



ADVANCING AMERICAN FREEDOM

January 16, 2024

Via Electronic Mail

The Honorable Jerome Powell, Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

The Honorable Martin Gruenberg, Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

Mr. Michael Hsu, Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, D.C. 20219

**RE: Proposed Regulatory Capital Rule: Large Banking Organizations
and Banking Organizations with Significant Trading Activity¹**

Dear Chairman Powell, Chairman Gruenberg, and Mr. Hsu,

Below are comments from Advancing American Freedom on the proposal to implement the Basel III Endgame standards issued by the Basel Committee on Banking Supervision.

Introduction

The Basel Committee's Endgame standards are supposed to strengthen the financial sector against the risk of failure by raising capital requirements for large banking organizations. Ironically, however, the implementation of these standards would further destabilize the global system that they purport to protect.

The Irony of Technocratic Rule

“If virtue becomes vice through some hidden defect in virtue; if strength becomes weakness because of the vanity to which strength may prompt the mighty man or nation; if security is transmuted into insecurity because too much reliance is placed upon it; if wisdom becomes folly because it does not know its own limits—in all such cases the situation is ironic.”
– Reinhold Niebuhr²

¹ 88 Fed. Reg. 64028 (Sept. 18, 2023).

² Niebuhr, *The Irony of American History* (New York: Scribner, 1952), xxiv.

When Edmund Burke, the father of modern conservatism, complained that “the Age of Chivalry is gone. That of sophisters, economists, and calculators has succeeded; and the glory of Europe is extinguished for ever,” his concern was not that enlightened reason would destroy traditional values, but that the abstract reasoning of French *philosophes* was dangerously untethered to reality and would thereby corrupt the modest goods that reason allows human being to attain. As Burke complains in his *Reflections on the Revolution in France*, these Frenchmen were guilty of “clearing away as mere rubbish whatever they found and... forming everything into an exact level,” rather than honoring the givenness and complexity of the created universe.³

Such a leveling approach to reality is not a matter of mere differences of opinion; as James C. Scott, the Sterling Professor of Political Science at Yale University, has demonstrated, the attempt to micromanage the world through bureaucratic technique (what Scott refers to as “high modernism”) often comes with unintended consequences.⁴ His important work, *Seeing Like A State*, outlines how the best laid plans of mice and men often go awry.

In one particularly illustrative example from the book, Scott shows how the attempts to make agriculture more efficient through standardization have created new vulnerabilities. While earlier systems, took advantage of diversity and complexity to establish resilience (e.g., larger trees in the forest protected smaller plants from storms), the homogeneity of the “improved” system came at a cost. While scale was easier to achieve, an entire field could be wiped out by a single factor, whether a storm, a blight, or some other danger. By the same stroke as standardization made fields more farmable for human beings, it also made them more vulnerable to disasters.

The Irony of Overregulating Banks

“The preservation of a democratic civilization requires the wisdom of the serpent and the harmlessness of the dove. The children of light must be armed with the wisdom of the children of darkness but remain free from their malice.”
– Reinhold Niebuhr⁵

Niebuhr warns that idealists (what he calls “the children of light”) are in danger of doing great damage to the world around them through their blind crusades. In order to preserve society, such children of the light must become “armed with... wisdom.” This is no less true for banking regulators. Rather than demanding new broad-stroke regulations after every downtick in the market, scandal, or bank failure, banking regulators need to reckon with the ways in which overregulation (rather than a lack of regulation) has caused market catastrophes.

³ *Reflections on the Revolution in France* (New York: Penguin, 1986), 346.

⁴ “High modernism is thus a particularly sweeping vision of how the benefits of technical and scientific progress might be applied—usually through the state—in every field of human activity,” from Scott’s *Seeing Like A State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale, 1998).

⁵ Niebuhr, *The Children of Light and the Children of Darkness: A Vindication of Democracy and a Critique of Its Traditional Defense* (Chicago: Chicago Press, 2011), 40-41.

Much like standardizing agricultural fields led to new vulnerabilities, standardizing banks has done the same. By removing diversity in financial institutions and pushing all banks towards a “Too Big to Fail” model, banking regulators have created new susceptibilities in the sector. For example, in the 1990s and 2000s, hundreds of new banks were created each year. Today, in the aftermath of the Dodd-Frank Act, new charters only average around a dozen, pushing all existing banks towards the same form and size. Just as a lack of diversity made modern agricultural fields vulnerable to a storm, so too has a lack of banking diversity driven instability, as each successive banking crisis grows larger and larger (with no buffers or warning signals to be provided by a range of institutions).

Conclusion

The psychologist Abraham Maslow once aptly warned that “if the only tool you have is a hammer, it is tempting to treat everything as if it were a nail.”

Federal bureaucrats, wielding the tool of regulation, have treated every problem as if it were one of under-regulation. Rather than investigating the real drivers behind the instability in our modern international financial system, in implementing Basel III Endgame’s banking supervision standards, federal bureaucrats have once again chosen to use the tool most immediately at hand to them, the tool which has, ironically, done the most to destabilize the system they are trying to preserve.

Accordingly, Advancing American Freedom asks that this rule be rescinded immediately.