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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

January 16, 2024

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

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

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

Dear Chair Powell, Chairman Gruenberg, and Acting Director Hsu:

We write regarding our continued concerns with the Basel III Endgame proposal (“the proposal”). As we noted in our November 12, 2023, letter to each of you, your agencies have still yet to justify the need for this proposal with any sufficient economic analysis or proof that the banking system is currently under capitalized.¹ Since we last wrote to you, our concerns have not been mitigated, and testimony from the November 14 and December 6, 2023, Senate Banking Committee hearings has only deepened our resolve that this proposal is flawed and must be withdrawn.

As noted above, on November 14, 2023, the Senate Committee on Banking, Housing, and Urban Affairs heard testimony from Vice Chair Michael Barr, Chair Martin Gruenberg, and Acting Comptroller Michael Hsu. During the hearing, colleagues on both sides of the aisle repeatedly raised various concerns with the proposal, yet received no concrete justification for the proposal in response. Instead, we heard a continued dismissal of our concerns.² In our November 12 letter

¹ See, Ranking Member Tim Scott, et al., letter to The Honorable Jerome H. Powell, The Honorable Martin Gruenberg, and Mr. Michael Hsu, November 12, 2023, available at: www.banking.senate.gov/imo/media/doc/basel_iii_banking_gop_letter.pdf.

² See, testimony by Vice Chair Michael Barr, “We continue to study impacts of the rule. We welcome public comment, both on the long-term debt proposal and on the capital proposal.”, “You know, as I have said, Senator, in response to other questions, this rule only affects the largest 37 banks in the country. It does not affect any banks in Montana, does not affect any community banks.”, “The way we have analyzed this rule, we do not believe that this will have significant negative effects on small businesses.” See, United States Senate Committee on Banking, Housing, and Urban Affairs, Full Committee Hearing entitled, Oversight of Financial Regulators: Protecting Main

to each of you, we highlighted our concerns that Vice Chair Barr’s holistic review of capital standards, which was utilized as evidence for the need of the proposal, had not been released by the Federal Reserve.³ During the hearing, Vice Chair Barr revealed that the review was never released, as it does not exist. In fact he stated, “[t]here is not a document that is the holistic review, sir.”⁴ Vice Chair Barr continued to assert that, “...the rulemaking has followed the normal administrative rulemaking process, which is to include in the proposed rule all the analysis that supports the rule.”⁵ This revelation means that the entire 1,087 pages of the proposal are underpinned by an impact and economic analysis section, which is in total less than 20 pages.

Following the November 14 hearing, on December 6, 2023, we heard testimony from the CEOs of the eight largest banks in this nation, which largely discussed how the proposal would hinder economic growth and reduce lending to households and businesses.⁶ Those CEOs testified that the agencies have failed to adequately study or contemplate the impacts of the proposal, including the detrimental impacts to mortgages and small business loans, retirement and college savings, consumer prices on commodities and everyday household items, costs of borrowing for farmers and rural communities, and government infrastructure and corporate development projects, just to name a few. During that hearing and since, we continue to hear particularly concerning testimonies about the outsized negative impacts the proposal would have on minority communities, especially LMI and minority borrowers.^{7,8} Those CEOs also testified as to the current strength of their respective institutions and highlighted their institutions’ ability to easily pass this past year’s stress test.

As backdrop to all of this, the Federal Reserve seemingly acknowledged that it did not appropriately consider the impacts of the proposal when it began an additional data collection in October 2023.⁹ The Federal Reserve’s own admission in the instructions for the additional data collection that, “[i]n particular, the Board seeks to assess the risk-weighted asset impact of the

Street Not Wall Street, November 14, 2023, available at: <https://www.banking.senate.gov/hearings/oversight-of-financial-regulators-protecting-main-street-not-wall-street>.

³ See, Vice Chair Michael Barr, speech entitled, Holistic Capital Review, July 10, 2023, available at: <https://www.federalreserve.gov/newsevents/speech/barr20230710a.htm>, “Now let me turn to the conclusion of the holistic review. In sum, I believe that the existing approach to capital requirements is sound. As a result, my proposals build on that foundation... An important aspect of my proposals will be to implement the changes to the risk-based capital requirements, referred to as the Basel III endgame...”.

⁴ *Id.*, at footnote 2.

⁵ *Id.*

⁶ See, United States Senate Committee on Banking, Housing, and Urban Affairs, Full Committee Hearing entitled, *Annual Oversight of Wall Street Firms*, December 6, 2023, available at: <https://www.banking.senate.gov/hearings/11/29/2023/annual-oversight-of-wall-street-firms>.

⁷ See, Urban Institute, Laurie Goodman, Jun Zhu, *Bank Capital Notice of Proposed Rulemaking*, September 2023, available at: www.urban.org/sites/default/files/2023-09/Bank%20Capital%20Notice%20of%20Proposed%20Rulemaking.pdf.

⁸ See, Written Statement of Jamie Dimon, Chairman and Chief Executive Officer, JPMorgan Chase & Co., December 6, 2023, available at: https://www.banking.senate.gov/imo/media/doc/dimon_testimony_12-6-23.pdf.

⁹ See, Board of Governors of the Federal Reserve System, press release, *Federal Reserve Board launches data collection to gather more information from the banks affected by the large bank capital proposal it announced earlier this year*, October 20, 2023, available at: <https://www.federalreserve.gov/newsevents/pressreleases/bcreg20231020b.htm>.

proposed revisions along with the **potential impact of certain policy options,**” (emphasis added), along with the revelation that Vice Chair Barr’s holistic review does not exist, should alone be reason enough to support the withdrawal of the proposal.¹⁰ How can we as legislators, or any of the American public, be asked to weigh in on a proposal, the effects of which the proposal’s authors do not yet fully comprehend? While we were encouraged by Vice Chair Barr’s commitment on January 9 to release the Federal Reserve’s analysis of the additional data collection prior to finalizing the proposal, it is still too little, too late.¹¹ Given that the public comment period for the proposal closed today, it is unclear how the public may be able to weigh in on the results of the data collection and whether adequate data will be released to allow for independent analysis.

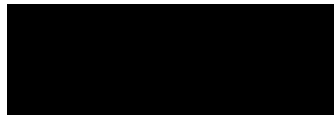
With today’s closure of the public comment period, we urge you to consider the negative impacts we have come to learn about the proposal and reconsider your agency’s approach. Accordingly, we once again urge you to withdraw the Basel III Endgame proposal as written and implore the Federal Reserve, the FDIC, and the OCC to operate in a more transparent and justified manner.

Thank you for your attention to this matter.

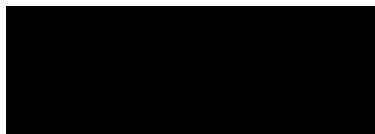
Sincerely,



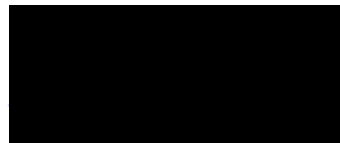
Tim Scott
Ranking Member



Mike Crapo
United States Senator



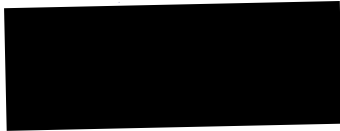
M. Michael Rounds
United States Senator



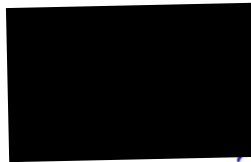
Thom Tillis
United States Senator

¹⁰ See, Board of Governors of the Federal Reserve System, *Instructions for Proposed Capital Rule Amendments Impact Data Template*, October 2023, available at: www.federalreserve.gov/newsevents/pressreleases/files/bcreg20231020b3.pdf.

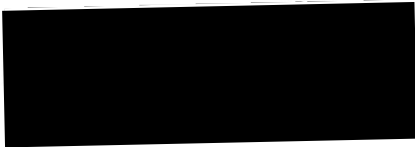
¹¹ See, Kyle Campbell, American Banker, *Regulators will take comments on Basel III endgame impact analysis, January 9, 2024*, available at: <https://www.americanbanker.com/news/regulators-will-take-comments-on-basel-iii-endgame-impact-analysis>.



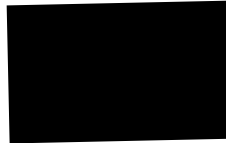
John Kennedy
United States Senator



Bill Hagerty
United States Senator



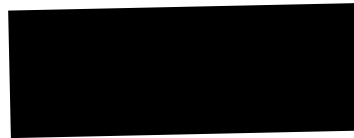
Cynthia Lummis
United States Senator



JD Vance
United States Senator



Katie Boyd Britt
United States Senator



Kevin Cramer
United States Senator



Steve Daines
United States Senator

- cc: Federal Reserve Vice Chair Philip Jefferson
Federal Reserve Vice Chair for Supervision Michael Barr
Federal Reserve Governor Michelle Bowman
Federal Reserve Governor Lisa Cook
Federal Reserve Governor Adriana Kugler
Federal Reserve Governor Christopher Waller
Federal Deposit Insurance Corporation Director Jonathan McKernan
Federal Deposit Insurance Corporation Vice Chairman Travis Hill