United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, DC 20510–6075

November 12, 2023

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 the recent Basel III Endgame proposal ("Basel III") issued jointly by the Board of Governors of the Federal Reserve System ("Federal Reserve"), the Federal Deposit Insurance Corporation ("FDIC"), and the Office of the Comptroller of the Currency ("OCC").[1] We have serious concerns that, as proposed, Basel III will restrict billions of dollars in capital from those who need it most, resulting in costlier and more limited access to credit for millions of Americans. This would create severe, adverse impacts on the entire U.S. economy, from every day American consumers to the small businesses that are the backbone of our economy.

Ultimately, these large increases in capital have not been shown to be evidentially based as the Federal Reserve, FDIC, and OCC have failed to provide proper analysis or data to justify their merits, particularly around the costs they will impose throughout all sectors of the economy. In fact, we have heard widespread concerns regarding the negative impacts that Basel III could have not only on affordable housing but on mortgage lending writ large, small business lending, and consumer lending. In addition, it would limit the availability of access to credit cards and home equity lines of credit. Similarly concerning, this proposal will ultimately put U.S. companies at a competitive disadvantage globally and could force U.S. companies to search for access to financial services from abroad, rather than here at home. Moreover, the proposal disproportionately harms companies that are not publicly listed, who happen to be middle market, private entities, and our millions of small businesses across the country. Each of these

[1] *See* Regulatory capital rule: Amendments applicable to large banking organizations and to banking organizations with significant trading activity, 88 Fed. Reg. 64028 (proposed September 18, 2023) (to be codified at 12 C.F.R. pt. 3, 6, 32, 208, 217, 225, 238, 252, 324.

potential consequences would have major ramifications alone, but taken in totality, they pose significant harm throughout the economy, particularly in the face of current economic headwinds and tightening credit conditions.

Given the vast implications of the proposal, we are only just beginning to understand the full breadth of impacts on consumers that Basel III will likely have, including on our retirement savers. However, one of the most concerning impacts will be those felt by pension funds. Currently, under Basel III, pension funds will be penalized when attempting to access our capital markets and will see increased fees when attempting to hedge risks. As it stands, the proposal will force pension funds to make a choice between paying more, or hedging less, with the only possible outcome being decreased returns for millions of hard-working Americans, including our teachers and first responders.

When it comes to providing mortgages for low- and moderate-income households, this proposal represents a departure from the original 2017 Basel agreement in favor of arbitrary capital increases and a disregard for banks' ability to offset risk through existing tools like private mortgage insurance, all without providing analytic justification to support these changes. The impact of these requirements for low-to-moderate income households will be significant. Families trying to purchase their first home will see increased rates and reduced access to credit. Further, these changes will result in decreased competition by banks in mortgage lending, leaving low-income households with even fewer places to turn to achieve the American Dream of homeownership.

Additionally, Basel III is being advanced at the behest of the international standard setting body, the Basel Committee on Banking Supervision ("BCBS"). When the BCBS agreement was announced in 2017, the stated intent was not to increase capital levels overall, in part due to the belief that the banking system was already strong and well-capitalized. In fact, the banking system recently weathered a global pandemic while continuing to support those who need it most. All the while, banks have continuously maintained high levels of capital and have demonstrated they are highly resilient. This is a sentiment that has been repeatedly reinforced by statements from Federal Reserve Chair Powell, Treasury Secretary Yellen, and other senior Administration officials of both parties throughout recent years.

The U.S. version of Basel III deviates from the previously stated intentions of the BCBS, increasing capital requirements for U.S. banks, with the Federal Reserve, FDIC, and OCC estimating that banks impacted by the proposal may be required to hold up to 16% more capital, on average. The proposal also diverges in key areas from how other jurisdictions are implementing Basel III to the detriment of American consumers, businesses, and international competitiveness.

While we appreciate that the Federal Reserve, FDIC, and OCC have extended the initial comment period and are now conducting a data collection, it is too little, too late. A thorough cost benefit analysis is critical to ensuring that our regulatory regime is based on sound quantitative analysis and should have been conducted well before releasing the Basel III proposal. As with all regulations, the burdens must be justified and should not outweigh the benefits. While the significant cost of this proposal is just now being understood, we have yet to see any evidence of its demonstrable benefits.

Furthermore, it is disappointing to see a rule proposed that is over 1,000 pages long, lacking any quantitative analysis to suggest that the rule is even necessary. While we heard for many months from Vice Chair Barr that the Federal Reserve was engaged in a holistic review of capital standards, the results of that review have never been publicly disclosed outside of a speech by the Vice Chair summarizing the results.[2] It remains imperative that the results of that review and any other underpinning analysis conducted by the Federal Reserve be released. Evidence of need must be demonstrated to warrant decisions of such profound magnitude, consequence, and enduring economic impact.

As American consumers continue to struggle with persistently high inflation, reduced access to affordable homeownership, and a slowing economy driven by the reckless spending of the Biden administration, any proposed changes to our bank regulatory framework must be based on demonstrable benefits and needs, not pre-determined agendas which will only serve to harm the economy and consumers alike. Accordingly, we urge you to withdraw the Basel III Endgame proposal as written and urge 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

Mitch McConnell
United States Senator

Mike Crapo
United States Senator

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[2] Speech by Vice Chair for Supervision Michael Barr, *Holistic Capital Review*, Board of Governors of the Federal Reserve System (Jul. 10, 2023), https://www.federalreserve.gov/newsevents/speech/barr20230710a.htm.

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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 Johnathan McKernan
Federal Deposit Insurance Corporation Vice Chairman Travis Hill