Ms. Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Mr. Ben McDonough
Chief Counsel
Office of the Comptroller of the Currency
400 7th Street SW (Suite 3E–218)
Washington, DC 20219

Mr. James P. Sheesley
Assistant Executive Secretary (Comments/Legal OES (RIN 3064–AF29)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

January 16, 2024

Subject: Regulatory Capital Rules: Large Banking Organizations and Banking Organizations with Significant Trading Activity (Docket IDs OCC-2023-0008, FRS R–1813, and FDIC-RIN 3064-AF29); and Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Rpt. (FR Y–15) (Docket No. R–1814 and RIN 7100–AG65)

Dear Ms. Misback, Mr. McDonough, and Mr. Sheesley:

We, the undersigned organizations are writing concerning the Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC) and Office of the Comptroller of the Currency's (OCC) (hereafter, the agencies) proposed regulatory capital rules, including the joint agency NPR, Large Banking Organizations and Banking Organizations with Significant Trading Activity;[1] and the Board's NPR, Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15).[2]

We support the agencies' work to finalize and implement these bank capital rules that align with the goals of the Basel Committee on Banking Supervision (BCBS).[3] These incorporate lessons from the financial crisis

[1] "Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity." 88 Fed. Reg. 64028 (Sept. 18, 2023).
[2] "Regulatory Capital Rule: Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y–15)," 88 Fed. Reg. 60385 (Sept. 1, 2023).
[3] The BCBS is an international prudential banking regulatory framework agreed to by 28 countries including the United States to promote cooperation on banking regulatory matters and encourage banking supervisory approaches to strengthen safety and soundness of the global financial system and financial institutions to prevent

of 2008 and, more recently, from the 2023 U.S. banking crisis. These proposals are urgently needed to increase the large banks' safety and soundness, strengthen the stability of the financial system, and preserve ordinary people's access to financial services. The Basel Committee began its third iteration of regulatory standards (Basel III) after the 2008 financial crisis demonstrated the flaws in the prior framework (Basel II). The Basel III framework includes capital, leverage, and liquidity requirements that member countries committed to implement in 2017.[4]

This large bank capital proposal would revise the risk-based capital framework to better measure and assess the risk associated with the various on and off balance sheet exposures held by banks, reducing their reliance on their own financial models while also increasing the consistency and sensitivity of the revised standardized measures. The proposal would also apply enhanced capital standards to banks in the large bank asset category that includes Silicon Valley Bank, Signature Bank, and First Republic Bank, restoring protections rolled back during the Trump administration.[5] The failures of these three banks in 2023 — the second, third and fourth largest bank failures in U.S. history, respectively — reinforced the need for these enhanced capital requirements.

Both the large bank capital proposal and GSIB surcharge proposal address the chronic problem of undercapitalization of the large banks and would make the financial system safer from financial crises and the resulting financial turmoil that puts households and businesses' financial security at risk. The proposals would do this by requiring the largest banks to hold more capital for their actual risk taking. The proposals would reduce the privatization of gains and socialization of losses that incentivize outsized risk taking by the biggest banks, which can otherwise juice profits from speculative activity, and then fall back on public bailouts if things go wrong. Banks — particularly the largest too-big-to-fail banks — would appropriately carry more of the weight and responsibility for holding big enough capital cushions.

Stronger capital standards are critically necessary to protect people from financial crises that harm individuals, households and communities across the country and have a disproportionately severe impact on Black, Latinx, and lower-income people and communities. The bank capital proposals are critical to improving the industry's resilience to stresses and shocks that, in the worst cases, lead to bank failures that can reverberate across the U.S. economy. The 2008 financial crisis robbed millions of Americans of their wealth and homeownership, with particularly devastating impacts on people and communities of color.[6] Capital requirements based on risk exposures that are captured and measured appropriately will reduce speculative bubbles like those that fueled the subprime crisis and robbed millions of people of their equity in their homes, increased unemployment and hurt individuals and businesses' access to credit.

The proposal would achieve this by strengthening market risk, credit risk, and operational risk measures, as well as derivatives-related measures, to be more consistent and sensitive to the actual risks banks hold,

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global financial crises. Each country pursues their own regulatory approaches to provide comparable safety and soundness regulations.

[4] Basel Committee on Banking Supervision Basel III. "Finalising post-crisis reforms December 2017."

[5] Board of Governors Federal Reserve, "Tailoring visual."

[6] Bayer, Patrick, Fernando Ferreira, and Stephen L. Ross. "What Drives Racial and ethnic Differences in High-Cost Mortgages? The Role of High-Risk Lenders." Review of Financial Studies. Vol. 31, Iss. 1. January 2018 at 175 to 205.

both on and off-balance sheet. The proposal would improve *market risk and derivatives measures*, increasing sensitivity to risk in the revised standardized approach for firms with significant trading activity, better accounting for periods of stress and requiring banks to hold more capital for illiquid trading positions. The proposal would improve *credit risk* measures by incorporating more credit risk drivers that differentiate between levels of credit risk.

The proposal would introduce more robust *operational risk* capital charges, especially relevant to banks with a history of losses related to operational risk (defined as the risk of loss resulting from inadequate or failed internal processes, people, and systems or from external events). The biggest operational risk loss in December 2022 was a $1.7 billion fine levied against Wells Fargo for violations across numerous product lines.[7] Most of the largest banks have accumulated billions of dollars of violation in their histories, with recent examples in financial crime and illicit trading floor communications.[8,9]

We urge the regulators to finalize the large bank capital NPR and the GSIB surcharge NPR with the fundamental elements of both proposals intact. We also urge targeted adjustments to the large bank capital proposal in two areas, in both cases in alignment with reasonable risk assessments: to mortgage risk weights to prevent additional barriers to homeownership for low and moderate income borrowers, and for borrowers of color (the proposal, and regulator comments since then, indicate an openness to this change); and to risk weights for clean energy tax equity finance exposures, which benefit from preferential tax treatment but are also higher cost and more extractive than similar credit exposures, both of which impact the relative risk.

Every time regulators have worked to create a more resilient banking system, banks' arguments have ranged from misleading the public as to what bank capital actually is, to threatening to cut back small business lending. This time, they are spending vast lobbying dollars to cloak themselves in the mantle of preserving access to credit. But the truth that the banks avoid debating is that the overwhelming impact of higher bank capital is - by design - to restrict how risky and how big the more speculative aspects of their business, notably their trading and investment bank operations can grow.

They also evade the fact that American banks could very easily raise their current capital levels by simply retaining more earnings, which are plentiful right now, instead of buying back shares or paying dividends. JPMorgan Chase, Wells Fargo, and Citigroup reported $22 billion in profit in the third quarter of 2023. Other major banks affected by the new rules, like Truist, U.S. Bancorp, Capital One, and PNC are also robustly profitable. Higher capital standards will leave large banks ample capacity to do more than they are today to serve the public and support the real economy through loans to individuals and businesses; they have to choose to prioritize these activities.

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[7] Husain, Osman. Consumer Financial Protection Bureau. "CFPB Orders Wells Fargo to Pay $3.7 Billion for Widespread Mismanagement of Auto Loans, Mortgages, and Deposit Accounts."December 20, 2022.

[8] Enzuzo. "12 Biggest Anti-Money Laundering (AML) Fines $500 Million and Above."July 18, 2023.

[9] CNBC. "Banks hit with $549 million in fines for use of Signal, WhatsApp to evade regulators' reach." Aug 8, 2023.

We support the key elements of the large bank capital proposal and the GSIB surcharge proposal because they are important to address the longstanding undercapitalization of America's largest banks. Thank you for the opportunity to comment on these critically important proposals.

Sincerely,