

# COMMITTEE ON CAPITAL MARKETS REGULATION

June 18, 2026

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*Re.: Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations, Federal Reserve Docket No. 1887 and RIN 7100-AH20, OCC Docket ID OCC-2026-0265, FDIC RIN 3064-AF29; Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets, Federal Reserve Docket No. R-1888 and RIN 7100-AH21, OCC Docket ID OCC-2026-0034, FDIC RIN 3064-AG23; Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), Federal Reserve Docket No. 1889 and RIN 7100-AH22*

## VIA EMAIL

Dear Sir or Madam:

The Committee on Capital Markets Regulation (the “**Committee**”) appreciates the opportunity to comment on the proposals by the Board of Governors of the Federal Reserve System (the “**Federal Reserve**”), the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (collectively, the “**Agencies**”), to amend the regulatory capital rules applicable to U.S. banking organizations (“**banks**”). These proposals are intended to implement the remaining Basel III “finalization” reforms for U.S. banks.

The proposals that this letter will address include a proposal that would apply an enhanced risk-based approach to capital to the largest and most systemically significant banks and other banks with significant trading activity (the “**ERBA Proposal**”),<sup>1</sup> and one that would generally apply to

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<sup>1</sup> OFFICE OF THE COMPTROLLER OF THE CURRENCY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, and FEDERAL DEPOSIT INSURANCE, *Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations with Significant Trading Activity, and Optional Adoption for Other Banking Organizations*, 91 FED. REG. 14,952 (proposed Mar. 27, 2026), <https://www.federalregister.gov/documents/2026/03/27/2026-05959/regulatory-capital-rule-category-i-and-ii-banking-organizations-banking-organizations-with>.

all other banks (the “**Standardized Approach Proposal**,”<sup>2</sup> collectively the “**Basel III Finalization Proposals**”).

In addition, we appreciate the opportunity to comment on the proposal by the Federal Reserve to modify the methodology for calculating the capital surcharge for the U.S. global systemically important banks (“**GSIBs**”) and to modify the risk-based indicators for other banks over \$100 billion in assets (the “**GSIB Surcharge Proposal**”).<sup>3</sup> For purposes of this letter, the Basel III Finalization Proposals and the GSIB Surcharge Proposal are collectively referred to as the “**Proposals**.”

Founded in 2006, the Committee is dedicated to enhancing the competitiveness of U.S. capital markets and ensuring the stability of the U.S. financial system. Our membership includes forty-six leaders drawn from the finance, investment, business, law, accounting, and academic communities. The Committee is chaired jointly by R. Glenn Hubbard (Emeritus Dean, Columbia Business School) and John L. Thornton (Former Chairman, The Brookings Institution) and is led by Hal S. Scott (Emeritus Nomura Professor of International Financial Systems at Harvard Law School and President of the Program on International Financial Systems). The Committee is an independent and nonpartisan 501(c)(3) research organization, financed by contributions from individuals, foundations, and corporations.

Our letter proceeds in three parts. Part I provides an overview of each of the Proposals. Part II explains how the Proposals would meaningfully improve upon the U.S. capital rules currently applicable to covered banks. Part III sets forth recommendations to further improve the Proposals.

We broadly support the reforms set forth in the Proposals, which we believe would improve the alignment of capital requirements with the risks associated with a bank’s activities and exposures. These improvements will, in turn, enhance the ability of banks to support U.S. financial markets and the real economy.

## **I. Overview and Background**

Part I.A summarizes the changes to the risk-based capital requirements under the Basel III Finalization Proposals, Part I.B summarizes the changes that would apply to the capital surcharge framework (“**GSIB Surcharge**”) for GSIBs and to the risk-based indicators under the GSIB Surcharge Proposal, Part I.C discusses the anticipated effects of the Proposals, and Parts I.D and I.E discuss the interaction of the Proposals with the “Collins Amendment” in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“**Dodd-Frank**”) and alignment with

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<sup>2</sup> OFFICE OF THE COMPTROLLER OF THE CURRENCY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, and FEDERAL DEPOSIT INSURANCE, *Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets*, 91 FED. REG. 15,332 (proposed Mar. 27, 2026), <https://www.federalregister.gov/documents/2026/03/27/2026-05960/regulatory-capital-rules-regulatory-capital-and-standardized-approach-for-risk-weighted-assets>.

<sup>3</sup> FEDERAL RESERVE SYSTEM, *Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15)*, 91 FED. REG. 14,908 (proposed Mar. 27, 2026), <https://www.federalregister.gov/documents/2026/03/27/2026-05961/regulatory-capital-rule-regulation-q-risk-based-capital-surcharges-for-global-systemically-important>.

international standards promulgated by the Basel Committee on Banking Supervision (“**Basel Committee**”), respectively.

## A. The Basel III Finalization Proposals

The Basel III Finalization Proposals would implement the remaining Basel III “finalization” reforms promulgated by the Basel Committee in its 2017 consolidated framework. The most significant aspects of those reforms which have not yet been implemented in the United States include: (i) increased risk sensitivity and standardization of credit risk weights; (ii) standardized risk weights for operational risk capital requirements; and (iii) the Fundamental Review of the Trading Book (“**FRTB**”), which substantially revises market risk capital requirements. The Basel III Finalization Proposals would generally implement all three reforms as we now explain.

### *General Background*

A U.S. bank with \$100 billion or more in total consolidated assets is subject to enhanced prudential standards according to a framework that tailors the application of those standards according to certain attributes of the bank.<sup>4</sup> Each such bank is assigned to a Category, with Category I applying the most stringent prudential standards. In descending order of stringency, these Categories are:

- *Category I*: U.S. GSIBs.
- *Category II*: Banks with (i) \$700 billion or more in total consolidated assets or (ii) \$75 billion or more in cross-jurisdictional activity.
- *Category III*: Banks with (i) \$250 billion or more in total consolidated assets or (ii) \$75 billion or more in short-term wholesale funding (“**STWF**”), nonbank assets, or off-balance sheet exposure.
- *Category IV*: Banks with over \$100 billion in total consolidated assets that do not meet the criteria for any of Categories I through III.<sup>5</sup>

Currently, almost all U.S. banks subject to U.S. capital requirements calculate the amount of capital they must hold to absorb losses according to standardized risk weights for a bank’s exposures (the “**Current Standardized Approach**”). For example, under the Current Standardized Approach, a bank that has a residential mortgage exposure that satisfies certain requirements applies a 50% risk weight to that exposure.<sup>6</sup> The second methodology, which generally applies to only Category I and II banks, permits the use of internal models to calculate risk weights for certain categories of exposures and applies modified standard risk weights to other categories of exposures (the “**Advanced Approaches**”).<sup>7</sup> Under both the Current Standardized Approach and the Advanced Approaches, a bank’s total exposures are aggregated and risk weighted to determine its risk-weighted assets (“**RWAs**”). Category I and II banks must calculate their capital requirements under both the Standardized Approach and the Advanced Approaches and are subject to the more

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<sup>4</sup> See 12 CFR § 252.5.

<sup>5</sup> *Id.*

<sup>6</sup> 12 CFR §§ 3.32(g), 217.32(g), 324.32(g).

<sup>7</sup> 12 C.F.R. §§ 217.100(a)–(b), 3.100(a)–(b), 324.100(a)–(b); ERBA Proposal at 15,009.

stringent of the two (the “**dual stack**” approach).<sup>8</sup> In practice, the Standardized Approach has often operated as the binding risk-based capital constraint for many large banks.<sup>9</sup>

The Basel III Finalization Proposals would establish a new Standardized Approach and new Enhanced Risk-Based Approach (“**ERBA**”) to finalize implementation of Basel III. ERBA removes the use of internal models except for market risk. ERBA would apply to Category I and II banks and the Standardized Approach would apply to Category III and IV banks as well as smaller banks that do not apply the community bank leverage ratio framework, which allows community banks to comply with a 9% leverage ratio<sup>10</sup> instead of risk-based capital requirements.<sup>11</sup> Any bank would be permitted to opt in to ERBA.<sup>12</sup>

We first describe how the new Standardized Approach Proposal and ERBA Proposal would enhance the risk-sensitivity of the existing risk-weighting process. We then describe the specific reforms to operational risk set forth in the ERBA Proposal and the reforms to market risk capital requirements in ERBA. We note at the outset that bank internal models may not be used for credit or operational risk as part of ERBA. Under ERBA, bank internal models are only permitted, with approval from the relevant banking Agency, for market risk.<sup>13</sup>

The Standardized Approach Proposal would retain certain risk weights under the Current Standardized Approach while modifying others to enhance the risk sensitivity of the standardized capital requirements (the “**Standardized Approach**”).<sup>14</sup> The Standardized Approach would provide new standardized regulatory risk weights for exposures subject to credit risk, counterparty credit risk and securitization risk capital requirements.<sup>15</sup> Among other changes, the Standardized Approach Proposal would: (i) modify risk weights applicable to residential mortgages based on their respective loan-to-value (“**LTV**”) ratios, with the potential for lower risk weights than the Current Standardized Approach for mortgages with low LTV ratios; (ii) reduce the risk weight applicable to corporate and many commercial real estate exposures from 100% to 95%; (iii) reduce the risk weight applicable to retail and certain other exposures from 100% to 90%; (iv) reduce the risk-weight floor for securitizations from 20% to 15%; (v) make it easier for collateralized loans and other non-derivative, non-repurchase transactions to take into account posted collateral; and (vi) allow greater netting and recognition of collateral diversification in repo-style transactions, eligible margin loans and collateralized derivatives, thus potentially lowering risk weights for those transactions.<sup>16</sup>

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<sup>8</sup> ERBA Proposal at 14,956.

<sup>9</sup> *Id.* at 15,099.

<sup>10</sup> OFFICE OF THE COMPTROLLER OF THE CURRENCY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, and FEDERAL DEPOSIT INSURANCE, *Community Bank Leverage Ratio: Final Rule (OCC Bulletin 2026-15)* (Apr. 23, 2026), <https://www.occ.gov/news-issuances/bulletins/2026/bulletin-2026-15.html>.

<sup>11</sup> ERBA Proposal at 15,192; Standardized Approach Proposal at 15,334 n.1. The elimination of the regulatory capital deduction for mortgage servicing assets would apply to banks that apply the community bank leverage ratio framework.

<sup>12</sup> ERBA Proposal at 14,957.

<sup>13</sup> ERBA Proposal at 14,956.

<sup>14</sup> Standardized Approach Proposal at 15,337.

<sup>15</sup> *Id.* at 15,335.

<sup>16</sup> 12 CFR 217.32(d)(3); Standardized Approach Proposal at 15,334, 15,344-45, 15,372, 15,379.

The ERBA Proposal would replace the “dual stack” approach currently applicable to Category I and II banks with a single enhanced risk-based approach (“ERBA”) which only retains models for market risk.<sup>17</sup> Compared to the Standardized Approach, ERBA would include more granular methodologies for calculating risk weights.<sup>18</sup> For instance, corporate exposures, which are subject to a simple risk weight of 95% under the Standardized Approach would be subject to varying risk weights between 65% and 150%, with investment grade exposures receiving the most favorable risk weights.<sup>19</sup> Similarly, retail exposures, which generally includes exposures that are generated in connection with non-business lending, such as credit cards or auto loans,<sup>20</sup> would receive varying risk weights between 45% and 100%, depending on the creditworthiness of the obligor and other characteristics of the exposure.<sup>21</sup> Unlike the Standardized Approach, the ERBA Proposal would also introduce further granularity of risk weights with regard to financial institution counterparties and commercial real estate exposures.<sup>22</sup>

### *Operational Risk*

Operational risk capital requirements are generally intended to account for the risk of loss resulting from inadequate or failed internal processes, people, and systems, or from external events.<sup>23</sup> Under the current U.S. capital rules, only banks that use the Advanced Approaches are subject to operational risk capital requirements through the calculation of risk-weighted assets, which are calculated based on internal models rather than regulatory risk weights.<sup>24</sup>

The Proposals would replace this framework. Under the Standardized Approach Proposal, operational risk calibration would be incorporated into revised standardized risk weights rather than through a separate operational risk RWA calculation, in order to avoid the burden associated with calculating operational risk RWAs separately. This operational risk “add-on” would be calibrated to approximately 12% of the credit risk weight applicable to a given exposure.<sup>25</sup> Under the ERBA Proposal, a Category I or II bank or a bank that has opted into ERBA would be required to separately capitalize for operational risk based on a standardized formula informed by the size and activities of a bank.<sup>26</sup>

### *Market Risk*

Market risk capital requirements intend to account for the risk that the market value of a bank’s assets could decline in response to negative market events, incorporating assumptions about

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<sup>17</sup> ERBA Proposal at 14,956.

<sup>18</sup> *Id.* at 14,964.

<sup>19</sup> *Id.* at 14,974.

<sup>20</sup> See 12 CFR 3.2, 217.2, 324.2 (defining “retail exposure,” “qualifying revolving exposure” and “other retail exposure”). Although “retail exposures” under the current U.S. capital rules also refer to residential mortgage exposures, they are generally discussed separately due to their idiosyncratic characteristics.

<sup>21</sup> See ERBA Proposal at 14,973-75.

<sup>22</sup> *Id.* at 14,964.

<sup>23</sup> See 12 CFR 3.101, 217.101, 324.101; ERBA Proposal at 15,008.

<sup>24</sup> See 12 CFR Part 3, Subpart E; 12 CFR Part 217, Subpart E; 12 CFR Part 324, Subpart E.

<sup>25</sup> Standardized Approach Proposal at 15,341.

<sup>26</sup> *Id.* at 15,009-12.

changes in asset prices over time and losses incurred between a negative market event and the time required to liquidate an asset.<sup>27</sup> Under the current U.S. capital rules, market risk capital requirements apply to banks with trading assets and liabilities equal to \$1 billion or more or to banks with trading assets and liabilities that constitute 10% or more of total assets.<sup>28</sup> Market risk RWAs are generally calculated using internal value-at-risk (“VaR”) models, which estimate the predicted amount of losses over a fixed, ten-business-day holding period,<sup>29</sup> and are subject to supervisory approval.<sup>30</sup>

The ERBA Proposal would replace the existing market risk capital requirements and implement the Basel Committee’s FRTB.<sup>31</sup> The ERBA Proposal’s market risk capital requirements would apply to Category I and II banks, as well as banks with trading assets and liabilities equal to 10% or more of total assets or equal to an increased amount of \$5 billion or more.<sup>32</sup> The ERBA Proposal would introduce a standardized approach for market risk, and revise the requirements for banks using internal models.<sup>33</sup> A bank could apply to the appropriate Agency to use models to calculate its market risk exposures, thus providing an ability to develop approaches that may better risk-adjust for market risk exposures than the standardized market risk weights.<sup>34</sup>

Critically, ERBA would also replace the VaR-based approach with an expected shortfall approach, which the Agencies state would better account for extreme losses and tail risks, and would replace the fixed liquidity horizon under the current market risk capital framework with liquidity horizons that vary according to the market risk exposure.<sup>35</sup> In aggregate, these changes would: (i) raise the threshold for mandatory market risk capital requirements from \$1 billion to \$5 billion while substantially increasing risk sensitivity for covered firms; (ii) increase the sensitivity of market RWAs to tail risks; (iii) introduce a new standardized approach for market risk; and (iv) increase the granularity of market risk capital requirements by adjusting the applicable liquidity horizon based on the underlying exposure.<sup>36</sup>

## B. The GSIB Surcharge Proposal

### *General Background*

Under the final rule issued by the Federal Reserve in August 2015, the U.S. GSIB Surcharge framework requires Category I banks to annually calculate both a Method 1 and a Method 2

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<sup>27</sup> ERBA Proposal at 15,016.

<sup>28</sup> See 12 CFR Part 3, Subpart F; 12 CFR Part 217, Subpart F; 12 CFR Part 324, Subpart F.

<sup>29</sup> See 12 CFR 3.204(a)(2), (c)(5), 217.203(a)(2), (c)(5), 324.203(a)(2), (c)(5); 3.205(b)(1), 217.205(b)(1), 324.205(b)(1).

<sup>30</sup> See 12 CFR 3.203(c), 217.203(c), 324.203(c).

<sup>31</sup> ERBA Proposal at 15,016 and n. 241.

<sup>32</sup> ERBA Proposal at 15,017.

<sup>33</sup> *Id.* at 15,016.

<sup>34</sup> *Id.* at 14,956.

<sup>35</sup> *Id.* at 15,016.

<sup>36</sup> *Id.* at 15,016-7.

score.<sup>37</sup> A bank's final GSIB capital surcharge is dictated by whichever method yields the higher rate.<sup>38</sup> Both methods are intended to assess systemic risk profiles using risk-based categories such as size, interconnectedness, complexity, and cross-jurisdictional activity.<sup>39</sup> However, while Method 1 reflects global Basel standards, Method 2 is a stricter U.S.-specific framework that includes a STWF metric to capture liquidity risk.<sup>40</sup> Method 2 has generally produced the binding surcharge for U.S. GSIBs and serves as the de facto binding requirement for most U.S. GSIBs.<sup>41</sup>

The GSIB Surcharge Proposal includes certain key reforms to the currently applicable GSIB Surcharge framework. Most importantly, the current GSIB Surcharge framework relies on risk-based indicators that are based on the size and complexity of the financial system in 2013.<sup>42</sup> As a result, GSIBs may be subject to higher capital requirements over time that are not commensurate with changes to their systemic risk but are instead “due to factors such as inflation, real economic growth, or other macroeconomic changes.”<sup>43</sup> For example, under the current approach, if a G-SIB were to grow in size from \$2 trillion to \$2.5 trillion then it would be subject to a higher G-SIB capital surcharge. However, the systemic importance of that G-SIB for the financial system may not necessarily have increased proportionately, since economic growth and inflation generally result in the growth of the overall banking system. In order to address this issue, the GSIB Surcharge Proposal would provide a one-time adjustment of 1.2 for the coefficients used to calculate a GSIB's method 2 score and applicable capital requirements, and subsequently index them to U.S. nominal gross domestic product (“GDP”) growth.<sup>44</sup> The Proposal would do so based on economic growth since 2019,<sup>45</sup> not 2013, which we address in Part III.

As another example, the data now used to calculate a bank's scores under Method 1 and Method 2 frameworks are determined at the end of the year.<sup>46</sup> The Federal Reserve and academic researchers have observed that, in some instances, GSIBs could be incentivized to modify their activities prior to the end of the year in order to minimize these values and thereby reduce their scores.<sup>47</sup> In order to address this issue, the GSIB Surcharge Proposal would revise reporting instructions to base the GSIB surcharge on the average of the entire year (in most cases for each calendar day) rather than point-in-time data at year end.<sup>48</sup>

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<sup>37</sup> FEDERAL RESERVE SYSTEM, *Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies*, 80 FED. REG. 49082 (Aug. 14, 2015), <https://www.federalregister.gov/documents/2015/08/14/2015-18702/regulatory-capital-rules-implementation-of-risk-based-capital-surcharges-for-global-systemically>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 49,109.

<sup>40</sup> *Id.*

<sup>41</sup> Governor Michael S. Barr, *Statement on Enhanced Supplementary Leverage Ratio Proposal* (Jun. 25, 2025), <https://www.federalreserve.gov/newsevents/pressreleases/barr-statement-20250625.htm>.

<sup>42</sup> GSIB Surcharge Proposal at 14,911.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 14,913.

<sup>46</sup> *Id.* at 14,917-18.

<sup>47</sup> *See id.* at 14,919.

<sup>48</sup> *Id.* at 14,917.

The GSIB Surcharge Proposal would also reduce the extent to which a GSIB's reliance on STWF would increase the GSIB capital surcharge. Presently, the extent to which a bank relies on STWF constitutes approximately 30% of a GSIB's Method 2 score.<sup>49</sup> The GSIB Surcharge Proposal would revise the STWF indicator so that the STWF indicator in the Method 2 score represents approximately 20%.<sup>50</sup> In aggregate, these changes would reduce the importance of STWF in determining the GSIB Surcharge, and as a result could provide greater capital relief to GSIBs that rely more heavily on STWF relative to GSIBs that rely more heavily on retail deposits and other funding sources. The GSIB Surcharge Proposal would also modify the STWF indicator so that it is no longer based on the ratio of the GSIB's STWF to the GSIB's RWA but is instead based directly on the amount of the bank's STWF.

The inclusion of STWF in Method 2 scores has itself been a topic of considerable debate since the GSIB surcharge framework was proposed.<sup>51</sup> The Basel Committee's framework for assessing systemic importance only has one method for determining the GSIB Surcharge and does not include an STWF indicator.<sup>52</sup> When adopting the GSIB Surcharge framework in 2015, the Federal Reserve noted that it viewed STWF as relevant for determining a GSIB's systemic risk profile.<sup>53</sup> Critics of this decision noted that, among other concerns, its inclusion conceptually overlaps with other components of the post-global financial crisis prudential framework, such as the liquidity coverage ratio, the net stable funding ratio and liquidity-related provisions of Dodd-Frank.<sup>54</sup> At that time, the Federal Reserve noted that these liquidity standards "do not fully address the systemic risks of [STWF]" because short-term creditors can withdraw funding quickly, causing a bank to also reduce its short-term credits to others, thus driving a negative chain of events.<sup>55</sup> As a result, at the time the Federal Reserve believed that the standardized liquidity standards did not incorporate the systemic risk that can arise from such asset sales or withdrawal of funding, which can in turn give rise to a rapid downturn in prices that can affect other market participants (known as "fire sales").<sup>56</sup> The Federal Reserve reiterated this concern in the GSIB Surcharge Proposal, noting that this dynamic "can create an adverse cycle of mark-to-market losses, margin calls, forced deleveraging, and additional losses, amplifying stress throughout the financial system."<sup>57</sup>

Thus, the inclusion of STWF and its relative weight in the GSIB Surcharge framework has long been a matter of debate with some believing it should be included in the GSIB surcharge and others believing it should be excluded and addressed by liquidity requirements that are better suited for

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<sup>49</sup> See *id.* at 14,916.

<sup>50</sup> See *id.*

<sup>51</sup> See, e.g., David Wagner, Kenneth E. Bentsen, Jr. and Rich Foster, *Letter to Robert deV. Frierson Re: Notice of Proposed Rulemaking: Comment Request: Risk-Based Capital Guidelines – Implementation of Capital Requirements for Global Systemically Important Bank Holding Companies (79 Fed. Reg. 75,473, December 18, 2014)* (Apr. 2, 2015), available at <https://bpi.com/wp-content/uploads/2018/07/comment.pdf> (the "2015 GSIB Surcharge Comment Letter").

<sup>52</sup> See BASEL COMMITTEE, *SCO40 – Global Systemically Important Banks* (Nov. 9, 2021), [https://www.bis.org/basel\\_framework/chapter/SCO/40.htm](https://www.bis.org/basel_framework/chapter/SCO/40.htm).

<sup>53</sup> See 80 FED. REG. at 49,089.

<sup>54</sup> See 2015 GSIB Surcharge Comment Letter at 7-8.

<sup>55</sup> See 80 FED. REG. at 49,088-89.

<sup>56</sup> *Id.*

<sup>57</sup> GSIB Surcharge Proposal at 14,915.

addressing funding risk. The GSIB Surcharge Proposal represents a reduction in the determination of the GSIB surcharge applicable to certain GSIBs that rely more on STWF than other GSIBs. However, the U.S. approach to the role of STWF in determining the GSIB surcharge would still exceed the Basel approach, which does not include STWF at all.<sup>58</sup>

C. Aggregate Anticipated Effects of the Proposals

The Agencies estimate that the ERBA Proposal would increase Common Equity Tier 1 (“CET1”) requirements (the most important capital requirement) for Category I and II banks by 1.4%<sup>59</sup> and that the GSIB Surcharge Proposal would reduce CET1 requirements by 3.8%,<sup>60</sup> suggesting that, in aggregate, the Proposals would modestly reduce CET1 requirements for Category I and II banks, although the precise effects may vary across firms and binding constraints. The Agencies also estimate that the Standardized Approach would reduce CET1 requirements by 6.1% for Category III and IV banks, 7.9% for banks with assets between \$10 billion and \$100 billion, and 7.5% for banks with assets under \$10 billion.<sup>61</sup> The Agencies do not provide impact estimates for Tier 1 and Tier 2 capital. CET1 is frequently the binding constraint for large banks.<sup>62</sup>

D. Collins Amendment

Under Section 171 of Dodd-Frank (the “**Collins Amendment**”), the Agencies are prohibited from establishing risk-based capital requirements lower than those generally applicable to depository institutions under the prompt corrective action framework in effect as of the enactment of Dodd-Frank in 2010.<sup>63</sup> At that time, a depository institution was considered “adequately capitalized” if it had: (i) a total risk-based capital ratio of 8% or greater; and (ii) a Tier 1 risk-based capital ratio of 4% or greater.<sup>64</sup> Although the precise requirements of the Collins Amendment have been subject to some debate,<sup>65</sup> we believe the Proposals are consistent with the statutory language and the Collins Amendment would not impose any binding constraint on the Agencies’ ability to implement the revisions contemplated in the Proposals.

Simply put, if the Proposals were finalized then the minimum capital requirements under risk-based standards remain at least as high as those generally applicable standards. Banks remain subject to a risk-based capital ratio of at least 8%.<sup>66</sup> Banks would remain subject to a Tier 1 capital

<sup>58</sup> See *supra* note 40.

<sup>59</sup> ERBA Proposal at 15,098.

<sup>60</sup> BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, *Memo on Basel III Proposal* at 3 (Mar. 19, 2026), <https://www.federalreserve.gov/aboutthefed/boardmeetings/files/board-memo-basel-gsib-standardized-approach-20260319.pdf>.

<sup>61</sup> Standardized Approach Proposal at 15,376.

<sup>62</sup> Andrew Scott, *Belts and suspenders: Analysis of large bank capital standards* (CRS Report No. R47634) (Jul. 26, 2023), <https://www.congress.gov/crs-product/R47634>.

<sup>63</sup> 12 U.S.C. § 5371(b)(2).

<sup>64</sup> 12 C.F.R. §§ 208.43(b)(2), 6.4(b)(2), 325.103(b)(2)

<sup>65</sup> See, e.g., INSTITUTE OF INTERNATIONAL BANKERS, *Comment Letter: Re Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity* (Jan. 16, 2023), <https://www.fdic.gov/system/files/2024-06/2023-regulatory-capital-rule-large-banking-organizations-3064-af29-c-199.pdf>.

<sup>66</sup> 12 CFR 3.10(a)(1), 3.11(a)(2)(v), 217.10(a)(1), 217.11(a)(2)(v), 324.10(a)(1), 324.11(a)(2)(v).

requirement of 6%,<sup>67</sup> higher than the 4% in effect at the time of the Collins Amendment. The Proposals would not change these specific thresholds, and many of the changes contemplated in the Proposals, such as market risk capital and certain operational risk elements, would increase rather than decrease RWAs.

As discussed in Part II.A below, capital levels in the banking system remain well in excess of the amounts that banks held at the time of the Collins Amendment. In sum, both minimum requirements and actual capital held by the banking system remain higher than the generally applicable requirements when the Collins Amendment was enacted.

E. Divergence from Basel III Standards

It is common for jurisdictions to vary in their implementation of Basel requirements<sup>68</sup> and available analyses do not demonstrate that the divergences in the Proposals are unusually significant or would require materially more or less capital than the Basel III standards.<sup>69</sup> Moreover, we note that U.S. banking institutions are also subject to the supervisory stress test framework which further increases capital requirements for U.S. banks beyond Basel III<sup>70</sup> requirements and results in overlapping requirements particularly for market risk and operational risk as we address in Part III of this letter.

The most significant divergence between Basel III and the Proposals is with respect to the use of models. Basel III would allow for the use of internal models for certain credit risk and market risk exposures.<sup>71</sup> Basel III would also establish an output floor under which total RWAs generated using internal models may not fall below 72.5% of standardized RWAs.<sup>72</sup> On the other hand, the Proposals would only allow for the use of internal models for market risk, not for credit risk. However, the Proposals would not impose a 72.5% floor on the use of internal models for market risk.

**II. The Proposals would continue to ensure a resilient capital framework.**

A. The Proposals would keep capital levels high.

As noted in Part I, the Proposals would only moderately lower current capital requirements in aggregate. For example, GSIB capital requirements in aggregate would decline by only 2.4%.<sup>73</sup> Moreover, the Proposals were accompanied by a Fed study that finds that this small percentage

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<sup>67</sup> 12 CFR 3.10(a)(1), 217.10(a)(1), 324.10(a)(1).

<sup>68</sup> See, e.g., BIS, *Basel III Regulatory Consistency Assessment: Preliminary Report: European Union* (Oct. 2012), [https://www.bis.org/bcbs/implementation/l2\\_eu.pdf](https://www.bis.org/bcbs/implementation/l2_eu.pdf).

<sup>69</sup> See, e.g., BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, *supra* note 60.

<sup>70</sup> See, e.g., SIFMA, *Understanding the Current Regulatory Capital Requirements Applicable to US Bank* (Feb. 6, 2023), <https://www.sifma.org/news/blog/understanding-the-current-regulatory-capital-requirements-applicable-to-us-banks>.

<sup>71</sup> BIS, *Basel III: Finalizing Post-Crisis Reforms* at 53 (Dec. 2017), <https://www.bis.org/bcbs/publ/d424.pdf>.

<sup>72</sup> *Id.* at 139.

<sup>73</sup> ERBA Proposal at 15,101.

reduction would simply bring minimum capital requirements for some GSIBs back down to their levels at the beginning of 2025.<sup>74</sup>

Studies conducted by the Basel Committee support the conclusion that the banking system would hold sufficient capital under the Proposals.<sup>75</sup> The Agencies project that the new level of CET1 in aggregate across the banking system, as a percentage of RWAs, would be approximately 13%.<sup>76</sup> The Basel Committee’s long-term study, which evaluated the relative costs and benefits of capital in the banking system, estimated that the net benefits of tangible common equity capital may be strongest between 11% and 15% of RWA.<sup>77</sup> Other more recent studies have come to similar conclusions using varied methodologies.<sup>78</sup> Similarly, in 2025, the Bank of England’s Financial Policy Committee revised its estimate of the optimal level of system-wide tier 1 capital from 14% to 13% of RWA.<sup>79</sup>

B. The Proposals generally reflect extensive economic analysis, considering the costs and benefits of proposed revisions to risk-based capital requirements and the GSIB Surcharge.

We recognize and appreciate the efforts of the Agencies to conduct well-founded economic analysis to justify the changes contemplated in the Proposals.<sup>80</sup> Cost-benefit analysis in the context of capital requirements is an inherently challenging task. The costs of capital requirements to efficient financial markets increase on a marginal, non-linear basis,<sup>81</sup> while the benefits are only fully appreciated in acute periods of financial market stress which may occur at unknown frequencies.<sup>82</sup> In addition, estimating whether and how other financial market participants can substitute for banks’ activities, and whether that substitution is desirable, can be highly uncertain.<sup>83</sup>

<sup>74</sup> BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, *Memo on Basel III Proposal, GSIB Surcharge Proposal, and Standardized Approach Proposal* (Mar. 19, 2026), <https://www.federalreserve.gov/aboutthefed/boardmeetings/files/board-memo-basel-gsib-standardized-approach-20260319.pdf>.

<sup>75</sup> See, e.g., BASEL COMMITTEE, *Basel III Monitoring Report* (Mar. 2026), <https://www.bis.org/bcbs/publ/d609.pdf>.

<sup>76</sup> ERBA Proposal at 15,118-9.

<sup>77</sup> BIS, *An assessment of the long-term economic impact of stronger capital and liquidity requirements* (Aug. 2010), [https://www.fsb.org/uploads/r\\_100818a.pdf](https://www.fsb.org/uploads/r_100818a.pdf).

<sup>78</sup> See Bill Nelson and Francisco Covas, *What is the Optimal Level of Bank Capital* (Jan. 17, 2019), <https://bpi.com/what-is-the-optimal-level-of-bank-capital/> (relevant literature review).

<sup>79</sup> BANK OF ENGLAND, *Financial Stability in Focus: The FPC’s Assessment of Bank Capital Requirements* (Dec. 2, 2025), <https://www.bankofengland.co.uk/financial-stability-in-focus/2025/fsif-the-fpcs-assessment-of-bank-capital-requirements>.

<sup>80</sup> See ERBA Proposal at 15,116-48; Standardized Approach Proposal at 15,382-92; GSIB Surcharge Proposal at 14,930-40.

<sup>81</sup> See, e.g., Christian Schmidt, *Bank Leverage, Capital Requirements and the Implied Cost of (Equity) Capital*, SSRN Working Paper (Feb. 12, 2020), <https://ssrn.com/abstract=3314171>.

<sup>82</sup> BIS, *The costs and benefits of bank capital – a review of the literature* (Jun. 2019), <https://www.bis.org/bcbs/publ/wp37.pdf>.

<sup>83</sup> See, e.g., COMMITTEE ON CAPITAL MARKETS REGULATION, *Letter to the Financial Stability Board Re: Leverage in Non-bank Financial Intermediation* (Feb. 28, 2025), <https://capmktreg.org/wp-content/uploads/2025/02/CCMR-FSB-Leverage-Comment-Letter-Final-2.28.25.pdf>.

Despite these and other challenges, we believe that the Agencies have provided transparency and accountability through the analysis accompanying the Proposals.

The Agencies provide a nuanced discussion of the benefits of enhanced risk sensitivity in the Proposals. In particular, they consider the specific effects of the proposed changes on activities including credit cards, residential mortgages, and corporate lending, in some circumstances disaggregating the anticipated effects by both borrower and bank type.<sup>84</sup> For instance, the Agencies consider the effects of their proposed use of LTV ratios to inform residential mortgage risk weights on particular financial institutions or borrowers, including low- and middle-income borrowers.<sup>85</sup> The Agencies provide an analysis for proposed changes to market risk capital requirements, including identifying the products for which capital requirements may increase due to longer liquidity horizons.<sup>86</sup> This analysis is not limited to effects on banks but also on their counterparties and end users of financial products, with a view toward not only bank safety and soundness but also broad-based improvements in the U.S. economy at large.<sup>87</sup> The Agencies extrapolate from the rule enhancements under the Proposal the potential for freeing up balance sheet capacity, for small and large banks, and therefore increased deployment of resources to lending to all sectors of the economy.<sup>88</sup>

This effort is particularly laudable in contrast to the Agencies’ 2023 proposal to revise the risk-based capital rules, which failed to justify many of its components notwithstanding their potential to cause significant (and often deleterious) changes to the U.S. banking system, their lack of appropriate and statutorily required tailoring and, in many cases, their upward deviation by gold plating Basel standards.<sup>89</sup> Indeed, the Agencies ultimately did not move forward with the 2023 proposal.

### III. Recommendations

#### A. The proposed revisions relating to unconditionally cancelable commitments and securitizations are unnecessary and would increase uncertainty for banks.

Banks are presently only required to hold capital against “commitments” when such commitments involve a “legally binding arrangement.” For example, a commitment could include a legally binding commitment to extend credit or purchase assets.<sup>90</sup> However, the Basel III Finalization Proposals would include within the definition of “commitments” situations where a bank “is not

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<sup>84</sup> See ERBA Proposal at 15,132-38; Standardized Approach Proposal at 15,385.

<sup>85</sup> See ERBA Proposal at 15,134-35.

<sup>86</sup> See *id.* at 15,139.

<sup>87</sup> See *id.* at 15,142.

<sup>88</sup> See Standardized Approach Proposal at 15,383-87.

<sup>89</sup> See, e.g., COMMITTEE ON CAPITAL MARKETS REGULATION, *Comment Letter Re: Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity* (Jan. 16, 2024), <https://capmktreg.org/wp-content/uploads/2024/01/CCMR-Comment-Letter-Regulatory-Capital-Rule.pdf>; SIFMA, *The Federal Reserve Should Remove “Gold Plating” in the Basel III Endgame* (Nov. 8, 2023), <https://www.sifma.org/news/blog/the-federal-reserve-should-remove-gold-plating-in-the-basel-3-endgame>.

<sup>90</sup> 12 C.F.R. §§ 217.2, 3.2, 324.2.

[legally] obligated.”<sup>91</sup> As we explain below, this could substantially increase bank capital requirements by significantly broadening the existing definition of “commitment.”

Although the Agencies explicitly note that pre-approval letters for residential mortgages and credit card offers do not constitute commitments under the proposed definition,<sup>92</sup> the status of more complex arrangements where a bank is not legally obligated to extend credit or purchase assets would be unclear. Many such arrangements are important for maintaining efficient intermediation in support of activities which do not pose material risks to banks and otherwise facilitate stronger bank-customer relationships. However, it is possible that such arrangements could be treated as commitments even though banks are not legally obligated to provide credit or purchase assets. The proposed change would also depart from the established GAAP definition of a commitment, creating uncertainty and increasing the risk of inconsistent treatment.

Under the Administrative Procedure Act (“APA”), an agency may not undertake an action that is arbitrary or capricious.<sup>93</sup> Case law interpreting the APA provides that an agency action may be arbitrary or capricious if it does not “examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choices made.”<sup>94</sup> As discussed in Part II.B, we appreciate the Agencies’ efforts to provide qualitative explanations, quantitative analyses and economic impact studies for the large majority of the material revisions discussed in the Basel III Finalization Proposals. However, the Agencies’ revisions to the definitions related to commitments lack the same quantitative rigor and transparency. The Supreme Court has elaborated that, under the APA, if a rulemaking “depart[s] from a prior policy [...] the agency must show that there are good reasons for the new policy.”<sup>95</sup> In our view, the Agencies have not yet sufficiently articulated the rationale for the proposed change to the definition of commitment. The potential for a significant increase in required capital and the injection of substantial uncertainty is clearly a departure from a prior policy that must be both reasonable and reasonably explained. Although the Agencies are not required to conduct economic analysis for every aspect of a rulemaking under the APA,<sup>96</sup> the relative absence of reasoned discussion or any estimate of the potential effect in this context suggests that the Agencies did not fully consider their impact in this case.

We recommend that the Agencies retain the existing definition of commitment as it provides a much clearer standard for banks and the Agencies have not established that reforming this standard is necessary.

We note also that the Basel III Finalization Proposals would revise the definition of a “securitization.” Securitizations are vehicles that pool financial assets whose cash flows are used to make payments to investors. Many securitizations include third-party guarantees that protect investors against defaults on the underlying financial assets. A specialized capital framework

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<sup>91</sup> ERBA Proposal at 14,977; Standardized Approach Proposal at 15,402.

<sup>92</sup> ERBA Proposal at 14,977; Standardized Approach Proposal at 15,342.

<sup>93</sup> 5 U.S.C. § 706(2)(A).

<sup>94</sup> *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

<sup>95</sup> *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

<sup>96</sup> See Maeve P. Carey, *Cost-Benefit Analysis in Federal Agency Rulemaking* (Oct. 28, 2024), <https://www.congress.gov/crs-product/IF12058>.

applies to securitizations. The Basel III Finalization Proposals would provide that this specialized capital framework only applies when the securitization vehicle’s payments to investors depend “solely” on the performance of the underlying financial assets. This change makes it uncertain whether the securitization capital framework applies to structures that include third-party guarantees as in the event of default such guarantees would impact the payments to investors. It therefore raises similar concerns regarding uncertainty and inconsistent application as the change to the definition of “commitment.” It also raises similar concerns under the APA, because the Agencies have not adequately explained the basis for this change or analyzed its potential effects. We therefore recommend that the Agencies not implement this change to the current definition of securitization.

B. The Agencies should recalibrate risk-based capital requirements in light of redundancies in the Federal Reserve’s supervisory stress testing framework.

There are important overlaps between the ERBA Proposal and the Federal Reserve’s supervisory stress testing framework, particularly with respect to market risk.<sup>97</sup> As a result, banks are required to overcapitalize for exposures relative to market risk.

The overlap exists primarily due to the historical process by which post global financial crisis reforms were enacted. In the immediate aftermath of the 2008 financial crisis, the Federal Reserve implemented the Supervisory Capital Assessment Program to restore confidence in the U.S. banking system and evaluate the ability of banks to absorb losses arising from adverse macroeconomic scenarios.<sup>98</sup> This program eventually evolved into the Federal Reserve’s current supervisory stress testing framework in 2011.<sup>99</sup> To address known deficiencies in the then-applicable market risk capital rules, the stress testing framework included a “global market shock” (“GMS”) to simulate the capture of extreme tail risks.<sup>100</sup> The GMS includes a “largest counterparty default component” designed to also capture the risk that a bank experiences the sudden default of its largest counterparty at the same time markets are under severe stress.<sup>101</sup>

However, the ERBA Proposal would for the first time also require banks to capitalize for such tail risks in their trading book. As noted in Part I, market risk capital requirements are currently

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<sup>97</sup> See Michelle W. Bowman, Vice Chair for Supervision, Federal Reserve, *Statements on the Bank Capital Proposals* (Mar. 19, 2026), <https://www.federalreserve.gov/newsevents/pressreleases/bowman-statement-20260319.htm> (“We have carefully considered overlapping requirements between Basel III and stress testing to help ensure that, when combined, capital requirements appropriately capture risk rather than being overly punitive.”).

<sup>98</sup> See BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, *The Supervisory Capital Assessment Program: Design and Implementation*, Apr. 24, 2009, available at <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20090424a1.pdf>.

<sup>99</sup> BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, *Comprehensive Capital Analysis and Review 2013: Assessment Framework and Results* (Mar. 28, 2013), <https://www.federalreserve.gov/bankinfo/reg/stress-tests/CCAR/March-2013-Summary-of-Results.htm> (“Building on the SCAP, the Federal Reserve conducted the first annual CCAR in 2011 and in the same year issued the capital plan rule.”)

<sup>100</sup> Greg Hopper, *Rationalizing the Global Market Shock*, BPI (Oct. 17, 2023), <https://bpi.com/rationalizing-the-global-market-shock/>.

<sup>101</sup> BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, *Supervisory Scenarios, Dodd-Frank Act Stress Test 2019: Supervisory Stress Test Results June-2020* (Aug. 29, 2020), <https://www.federalreserve.gov/publications/june-2020-supervisory-scenarios.htm>.

calculated using VaR models, which generally estimate the amount of losses over a fixed period of time. Under the ERBA Proposal, market risk capital requirements would instead be calculated based on an expected shortfall model, which is not limited by a fixed period in time.<sup>102</sup> This proposed change is intended to “better reflect[] the tail risk of extreme events” by expanding the time period of risk and accounting for market illiquidity during stressed conditions.<sup>103</sup> Similarly, the stress test’s GMS was intended to capitalize for market risk in extreme, tail-risk-style stress conditions. Because the stress capital buffer, which is calibrated based on the results of the supervisory stress test, and ERBA are additive capital requirements, the ERBA Proposal would create meaningful overlap with capital already held against tail risks under the stress testing framework.

Therefore, we recommend that the Agencies conduct further analysis of the overlaps between ERBA and the supervisory stress testing framework, and finalize a rule that either generally reduces the market risk capital requirements in relation to tail risk or reduces the severity of the GMS to remediate the fact that banks would be required to hold more capital for the same market risk exposures.

In addition, as Part I explained, the current standardized approach, which sets binding requirements for most Category I-IV banks, does not include an operational risk charge. The Basel III Finalization Proposals would implement an operational risk charge for all Category I-IV banks. The Standardized Approach Proposal would calibrate operational risk to approximately 12% of the credit risk weight applicable to a given exposure. The ERBA Proposal would increase this percentage from 12% up to 18% based on the size and activities of a bank. However, because operational risk capital is already captured through the supervisory stress testing framework, both the Standardized Approach Proposal and ERBA Proposal would potentially require banks to hold capital against overlapping operational risks. The extent of potential overlap is greater under the ERBA Proposal because of the higher credit risk weightings used to calculate the operational risk charge. The Agencies should therefore consider mitigating the overlap with respect to operational risk by applying the same fixed 12% formula that applies under the Standardized Approach Proposal to the ERBA Proposal.

C. The Federal Reserve should further update its capital framework to reflect economic growth.

We support the Federal Reserve’s efforts to recalibrate the GSIB Surcharge to mitigate unintended results from aspects of the current framework, such as a failure to reflect economic growth over time, and recommend a broader application of this same principle.<sup>104</sup>

As we explained in Part I, the current GSIB framework does not adjust for economic growth. Under the current approach, if a G-SIB were to grow in size from \$2 trillion to \$2.5 trillion then it would be subject to a higher G-SIB capital surcharge. However, the systemic importance of that G-SIB for the financial system may not necessarily have increased proportionately, since economic

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<sup>102</sup> See *supra* note 35.

<sup>103</sup> ERBA Proposal at 15,139

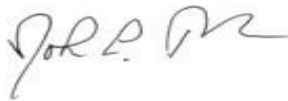
<sup>104</sup> GSIB Surcharge Proposal at 14,911, 14,914.

growth and inflation generally result in growth of the overall banking system. The Proposal would address this issue by adjusting for nominal GDP growth since 2019.<sup>105</sup> However, the existing requirements were calibrated based on data from 2013.<sup>106</sup> Between the beginning of 2013 and year-end 2019, the U.S. economy grew by approximately 16% in real terms and by approximately 28% in nominal terms.<sup>107</sup> A change based solely on economic growth since 2019 would cause such GSIB surcharge scores to remain overstated relative to the original data from 2013. Therefore, the Federal Reserve should adjust the GSIB framework to account for nominal GDP growth since 2013 rather than the increase since 2019.

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Thank you for your consideration of the Committee's position. Should you have any questions or concerns, please do not hesitate to contact the Committee's President, Professor Hal S. Scott ([hscott@capmksreg.org](mailto:hscott@capmksreg.org)) or its Executive Director, John Gulliver ([jgulliver@capmksreg.org](mailto:jgulliver@capmksreg.org)) at your convenience.

Respectfully submitted,



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<sup>105</sup> See *supra* note 45.

<sup>106</sup> GSIB Surcharge Proposal at 14,911.

<sup>107</sup> U.S. BUREAU OF ECONOMIC ANALYSIS, NATIONAL INCOME AND PRODUCT ACCOUNTS, *Table 1.1.5 (Gross Domestic Product) and Table 1.1.6 (Real Gross Domestic Product, Chained Dollars)*, <https://apps.bea.gov/iTable> (last accessed Jun. 18, 2026).