Banking and Finance Law Daily Wrap Up, CAPITAL AND BASEL ACCORDS—Agencies propose modernizing regulatory capital framework, (Mar. 19, 2026)

Banking and Finance Law Daily Wrap Up

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The OCC, Fed, and FDIC have issued a series of proposals that would revise the regulatory capital requirements

In two separate meetings, the Federal Reserve Board and Federal Deposit Insurance Corporation have approved a number of regulatory proposals to modernize their regulatory capital framework by improving the framework's risk sensitivity and reducing burden, while retaining the framework's robustness. As a member of the FDIC Board of Directors, the Office of the Comptroller of the Currency has also approved the proposed capital changes.

These actions by the agencies seek to address issues connected with their 2023 proposal known as the Basel III Endgame (see *Banking and Finance Law Daily*, July 27, 2023).

Expanded risk-based approach. The first proposal introduces a new expanded risk-based approach applicable to Category I and II banking organizations, which are the largest, most internationally active banking organizations. Currently, Category I and II banking organizations are required to calculate two sets of risk-based capital ratios. One set uses the U.S. standardized approach, which generally applies to all U.S. banking organizations. The other set uses the advanced approaches, which rely on these banking organizations' internal models to assess the risk of their activities.

Under the proposed expanded risk-based approach, Category I and II banking organizations would be subject to a single set of risk-based capital calculations. This would be accomplished by having a standardized risk-weighting methodologies for credit, equity, and operational risks. It was noted in a Fed staff memo that this "new approach would better capture credit risk, including by incorporating additional relevant metrics [such as . . .] loan-to-value ratios for real estate exposures."

Standardized approach. The agencies' standardized approach proposal would improve risk sensitivity, but retain the simplicity of the current framework.

The standardized approach is the agencies' baseline, nonmodel-based method for calculating risk-weighted assets and applies to Category III and Category IV banking organizations which are typically large regional banking organizations that have at least $100 billion in assets and some other risk-based indicator, such as off-balance sheet exposure.

The standardized approach proposal would better calibrate capital requirements for the risks of the largest categories of bank lending activities. For example, the proposal would use loan-to-value ratios to determine the applicable risk weight for residential real estate exposures. In addition, the standardized approach proposal, as well as the expanded risk-based approach, would remove any requirement to deduct mortgage servicing assets from regulatory capital and would instead assign a 250 percent risk weight to all such assets. It is anticipated that this change would help promote bank participation in mortgage businesses, while recognizing uncertainty regarding firms' ability to realize value from mortgage servicing assets over the economic cycle.

GSIB surcharge proposal. The final proposal, issued only the Fed, would improve the measurement of systemic risk in the framework which determines the surcharge that applies to the largest and most complex banking organizations. The GSIB surcharge proposal would modify the method 2 fixed coefficients to: reflect changes in the financial system and economy over the past few years; and introduce a mechanism that would

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automatically adjust these coefficients annually to account for economic growth and inflation going forward. The proposal would also remove the risk-weighted assets denominator from the short-term wholesale funding indicator; reduce incentives for the GSIBs to make temporary adjustments to reported indicators of systemic risk at year-end; and reduce cliff effects by assigning surcharges in increments of 10 basis points rather than 50 basis points.

Meaningful improvement. In an opening statement, Vice Chair for Supervision Michelle W. Bowman noted that the proposals "would meaningfully improve the bank capital framework by addressing duplicative overlaps, matching requirements to actual risk, and comprehensively addressing long-standing gaps in our framework." She added, "The result will be more efficient regulation and banks that are better positioned to support economic growth, while preserving safety and soundness and financial stability. Importantly, they will also bring us closer to fulfilling the U.S. commitment to implement the 2017 Basel III agreement and will complete the first step of our comprehensive review of the capital framework."

Unnecessary and unwise. On the other hand, Fed Governor Michael S. Barr said, "These significant reductions in capital requirements are unnecessary and unwise. The capital surcharge for G-SIBs could be refined and the Basel III reforms could be adopted in the United States without materially weakening the capital framework. Today's proposals, if adopted, would harm the resilience of banks and the U.S. financial system."

Swift conclusion. During the FDIC Board meeting, the agency's Chairman, Travis Hill, noted, "As many of you know, these proposals have been many years in the making. Unlike prior efforts, I fully expect that, following a robust comment period, we will bring this process to a swift conclusion."

Resetting risk tolerance. Comptroller of the Currency Jonathan V. Gould said, "Today's proposals are another important step in resetting the risk tolerance for the banking system and restoring banks to their proper role as financial intermediaries." He added, "These proposals would also simplify our regulatory framework by eliminating the need for calculating risk weights using multiple methodologies in parallel."

Trades react. In a joint statement, the Bank Policy Institute, American Bankers Association, Consumer Bankers Association, Financial Services Forum and National Bankers Association noted, "We welcome regulators' efforts to enable banks of all sizes to make more loans to American businesses and households, fueling economic growth while maintaining resilience in the banking system. We will carefully review the proposal and expect to provide feedback after assessing the impact on our members and the millions of customers they serve. We continue to appreciate regulators' willingness to hear perspective from all stakeholders, and their commitment to thoughtfully consider the cumulative effect of all capital requirements."

Taking a fresh look. Independent Community Bankers of America (ICBA) President and CEO Rebeca Romero Rainey thanked the federal banking regulators for taking a fresh look at capital requirements and considering the community bank perspective in developing proposed rules on regulatory capital. She added, "We are reviewing today's proposals to ensure they help community banks thrive and continue to provide access to capital for small businesses and families in their local communities while promoting financial stability and minimizing systemic risk posed by the largest financial institutions."

Drain lending away. Dennis Kelleher, Co-Founder, President, and CEO of Better Markets said, "today's proposals will drain lending away from Main Street families' needs and priorities and further enrich the already wealthy on Wall Street and the top 10 percent of Americans they focus on serving. The banking agencies' proposals to loosen capital rules are a victory for Wall Street lobbying, and claims to the contrary are nothing more than an attempt to mislead the American people." He added, "What the country needs is lending that supports durable, sustainable economic growth and the real productive economy, which means increasing lending to households and small businesses in particular. The country does not need more big-bank profit-driven capital-markets trading activities and more lending to nonbank financial institutions and shadow banks like hedge funds and private equity firms."

Companies: American Bankers Association; Better Markets; Consumer Bankers Association; Financial Services Forum; Independent Community Bankers of America; National Bankers Association

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