



June 18, 2026

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

Re: Proposed Revisions to the Risk-Based Capital Framework: Amendments to the Expanded Risk-Based Approach for Large Banking Organizations and Modifications to the Standardized Approach for Credit Risk

I. Introduction

The Commercial Real Estate Finance Council (“CREFC”) appreciates the opportunity to respond to the request of the Board of Governors of the Federal Reserve System (“Federal Reserve”), the Office of the Comptroller of the Currency (“OCC”), and the Federal Deposit Insurance Corporation (“FDIC”; and collectively, the “Federal Regulators”) for comments on proposed changes to the regulatory capital rules, including the proposed revisions to the risk-based capital framework for Category I and II banking organizations (the “Basel III Proposal”) and the proposed modifications to the standardized approach for credit risk applicable to other banking organizations (the “Standardized Approach Proposal”; and collectively with the Basel III Proposal, the “Proposals”).

CREFC comprises over 400 institutional members representing U.S. commercial and multifamily real estate investors, lenders, and service providers—a market with over \$6 trillion of commercial real estate (“CRE”) debt outstanding. CRE debt enables the development and operation of the properties where Americans live, work, shop, and spend their free time. Our principal functions include setting market standards, facilitating transparent market information, and providing educational programming for participants in the CRE lending community.

A core mission of CREFC is fostering efficient and sustainable CRE securitizations. We work closely with policymakers to optimize market standards and regulations and ensure that CRE debt liquidity remains available to this important component of the U.S. economy.

Other trade associations will submit comments addressing broader concerns with the Proposals. While we share some of those concerns, this letter focuses on discrete, constructive recommendations to ensure that the final rules appropriately calibrate capital requirements for CRE exposures, preserve essential financing channels, and avoid unintended consequences for CRE lending and securitization markets. We will also provide specific recommended changes to the regulatory text itself.

II. Our Recommendations

CREFC generally supports the Proposals, which seek to complete the Basel reforms while modifying other aspects of the post-crisis prudential regulatory framework.

The Proposals incorporate several changes we and other industry participants requested in response to the 2023 Proposal, including retention of the 0.5 securitization calibration parameter (p factor), reduction of the risk weight floor for some senior securitization exposures from 20% to 15%, elimination of threshold-based CET1 deductions for mortgage servicing assets, and codification of “eligible prepaid credit protection arrangements” to recognize protection from bank-issued credit-linked notes. We appreciate these very constructive steps toward a more risk-sensitive capital framework.

Targeted refinements remain necessary, however, to ensure that the final rules accurately reflect CRE credit risk and market structure, preserve safe bank intermediation in CRE and securitization markets, and avoid unintended incentives that shift activity to the nonbank sector without improving safety and soundness. To ensure that the final rules appropriately balance risk sensitivity with the needs of CRE finance, we respectfully request that the Federal Regulators:

(i) Permit Category III and IV banking organizations and similarly situated institutions to access granular CRE risk weights without adopting the entire expanded approach;

(ii) Broaden the “regulatory CRE” and “real estate exposure” definitions to avoid structural penalties for mezzanine and special-purpose entity (“SPE”)-recourse structures, with measured add-ons for subsequent liens as warranted;

(iii) Revise the securitization eligibility criterion to recognize transactions that depend “primarily” on underlying assets and equalize the 15% floor for comparable government-sponsored enterprise (GSE) exposures during conservatorship;

(iv) Tailor the expanded “commitment” scope, retain a 0% credit conversion factor (“CCF”) for unconditionally cancelable, secured CRE warehousing under the standardized approach, and avoid peak-balance imputations that overstate risk;

(v) Reassess the mortgage servicing asset risk weight in light of empirical performance and the Federal Regulators’ own requests for comment;

(vi) Cap high-LTV, cash-flow-dependent regulatory CRE at 100% to avoid counterintuitive outcomes relative to unsecured corporates;

(vii) Permit banking organizations to treat qualifying equity and debt investments in LIHTC housing developments as exposures to a public sector entity for purposes of risk-weighting; and

(viii) Clarify that exposures to multifamily mortgages purchased by Fannie Mae or Freddie Mac be immediately treated as equivalent to statutory multifamily loans and subject to a 50% risk weight.

As discussed below in detail, these refinements would enhance safety and soundness by better matching capital to true risk drivers, maintain competitive equity across institution sizes and asset classes, and preserve critical channels of credit formation and risk transfer in CRE markets that underpin U.S. economic activity.

A. Risk-Sensitive CRE Risk Weights for All Banking Organizations.¹

The Basel III Proposal would create more granular risk weights for regulatory CRE exposures held by Category I and II banking organizations, based on loan-to-value (“LTV”) ratios and whether repayment depends on cash flows generated by the property, with risk weights ranging from 70% to 110% for cash-flow-dependent exposures. These risk weights are substantially lower than the existing 100% risk weight for most CRE exposures, generally align with international capital standards, and represent a significant improvement in risk sensitivity over the current rules.

In contrast, the Standardized Approach Proposal would retain a single risk weight for CRE exposures, lowering it modestly from 100% to 95% for CRE loans treated as corporate exposures. This stands in stark contrast to residential real estate exposures, where both Proposals would introduce granular risk weights driven by LTV ratios and cash-flow dependence. The asymmetry between the treatment of CRE and residential real estate is difficult to justify on risk grounds, as CRE credit performance and loss severity are equally correlated with LTV and cash-flow dynamics.

We respectfully request that the Federal Regulators permit Category III and IV banking organizations and smaller, non-CBLR banking organizations to use the granular, risk-sensitive LTV- and cash-flow-based risk weights available under the Basel III Proposal for CRE exposures without requiring adoption of all other Category I and II banking organization requirements.² This flexibility would advance the Federal Regulators’ stated objective of improving risk sensitivity while maintaining simplicity for smaller institutions, promote competitive equity across institution sizes, and result in more efficient capital allocation to lower-risk CRE exposures.

¹ This section responds to Questions 11 and 12 of the Standardized Approach Proposal.

² While the Proposals would permit Category III and IV banking organizations and smaller, non- Community Bank Leverage Ratio (CBLR) banking organizations to opt into the expanded risk-based approach, doing so would require those organizations to adopt all other requirements applicable to Category I and II banking organizations, including the standardized operational risk charge and the requirement to include accumulated other comprehensive income (“AOCI”) in common equity tier 1 capital. Many regional and community banks reasonably may not wish to assume these additional burdens merely to access more risk-sensitive CRE risk weights.

This request is grounded in both policy and empirical considerations. The Proposals would establish granular, LTV-based risk weights for residential real estate for all banking organizations; extending the principle to CRE exposures under the Standardized Approach Proposal would eliminate a structural disparity that otherwise disadvantages low-risk CRE lending by smaller institutions. Further, CRE credit performance and loss severity are strongly correlated with equity buffers and property cash flow dynamics, and the Basel III Proposal’s use of granular LTV ratios and cash-flow dependency recognizes these determinants while allowing risk weights to decline as amortization lowers leverage. These correlations are equally present in CRE exposures at banking organizations that are subject to the Standardized Approach Proposal.

B. Scope of “Regulatory Commercial Real Estate” Definition.³

The Basel III Proposal would define regulatory commercial real estate as a real estate exposure in which the banking organization holds a first-priority security interest in CRE that has not been modified or restructured. While it would assign such exposures preferential risk weights based on LTV and cash-flow dependence, exposures that fail to qualify would be classified as “other real estate exposures” and subject to a 150% risk weight. Getting this scope right is critical given that banking organizations remain the largest holder of outstanding CRE mortgage debt by dollar value, and if the scope is set too narrowly, low-risk CRE loans will be subject to a punitive risk weight merely because of their structure. Affected structures include (i) preferred equity investments in and mezzanine loans secured by equity interests in property-owning SPEs and (ii) B-note participations and junior participation interests in CRE—all of which are common in CRE finance and have credit risk profiles closer to first-lien CRE or corporate exposures than to the 150% “other real estate” category.

As we explained in our 2023 comment letter, narrowly conditioning “regulatory CRE” on first-lien real estate collateral would needlessly push structurally sound credits into “other real estate,” despite their credit performance being closer to first-lien CRE or corporate exposures. This concern persists, as the Proposals carry forward the same definitional framework.

While a first-lien requirement may be appropriate for residential real estate, it is not suited for CRE finance structures. In CRE finance, properties are routinely held in SPEs for bankruptcy remoteness and legal separateness, mezzanine lenders and preferred equity holders take security in the equity of the property-owning borrower, and intercreditor agreements and financial covenants preserve collateral value and lender protections. Recourse to the SPE that owns the CRE creates credit risk that is not similar to that associated with other exposures that are subject to a heightened risk weight, and penalizing such exposures at 150% based solely on lien form rather than economic risk is inconsistent with risk-sensitive capital calibration. When a banking organization or other loan originator underwrites a CRE loan, it primarily assesses the creditworthiness of the CRE (i.e., the value of the property, expected cash flows, and debt service coverage), rather than the creditworthiness of a parent company or broader group, which is of secondary importance as discussed in more detail in Section C below. Therefore, the risk weight for an SPE that has no material assets beyond CRE should be set based on the

³ This section responds to Question 19 of the Basel III Proposal.

creditworthiness of the CRE, and not be treated as worse than a generic, unsecured corporate exposure.

Additionally, CRE lending exposures in the form of B-note participations and junior participation interests involve a lender with a contractual security interest in the CRE, but their payment rights are subordinated to first-lien mortgagees. CRE finance typically involves higher dollar values than residential real estate lending, and therefore more frequently involves arrangements with multiple lenders. These lenders' combined credit risk is based on the aggregate LTV of the finance facility, and the fact that the large size of the loan amount necessitates some lenders taking subordinate positions should not detract from that combined credit risk. Rather, each lender's credit risk should be based on the aggregate amount of loans made by that lender and other creditors who are senior to that lender.

Therefore, we request that the Federal Regulators revise the definitions of (i) "real estate exposure" to include direct recourse obligations of a borrower with no material assets beyond commercial property holdings and (ii) "regulatory commercial real estate exposure" to include exposures primarily secured by a first or subsequent lien on commercial property or that are recourse obligations of a borrower with no material assets beyond commercial property holdings.⁴ If the Federal Regulators wish to differentiate the credit risk of first and subsequent liens, this could be managed through an add-on risk weight for exposures without a first-priority interest (e.g., a 15-percentage-point increase).

C. Securitization Eligibility, Calibration, and Competitive Neutrality.⁵

CREFC commends the Federal Regulators for retaining the p factor of 0.5 in the securitization risk weight formula and for lowering the non-resecuritization risk weight floor from 20% to 15%, responding to key concerns we and other industry participants raised in 2023.

However, both Proposals would clarify that a banking organization may recognize an exposure as a securitization only if the performance of the securitization exposure is expected to depend "solely" upon the performance of the underlying exposures. The preambles expressly state that a transaction would not satisfy this criterion if there is an expectation that any sources outside of the underlying exposures—including a limited guarantee from a sponsor or originator—would fund interest or principal payments.

This clarification will likely affect mortgage warehouse facilities and loan-on-loan CRE financing structures that previously qualified for securitization treatment. Facilities where sponsors or originators provide limited guarantees may no longer be eligible for favorable

⁴ Our recommended changes in the attached redline include clarifications that make it clear that a regulatory commercial real estate exposure may be originated and held by a person other than the banking organization that is assigning a risk weight to the exposure. This would occur with respect to CRE loans that are originated by a nonbank and sold or participated to a banking organization, as well as CRE loans that are originated and held in a securitization vehicle that a banking organization invests in (e.g., CMBS). Additionally, we recommend the deletion of the qualifier that regulatory commercial real estate exposures be "fully completed" because that requirement is duplicative of the preceding requirement that the exposure not be "an ADC exposure, a pre-sold construction loan, a statutory multifamily mortgage, or an HVCRE exposure."

⁵ This section responds to Questions 12, 62, and 198 of the Basel III Proposal and Questions 36 and 58 of the Standardized Approach Proposal.

securitization capital treatment, potentially requiring banking organizations to hold capital against the underlying exposures as if they had not been securitized. This outcome would be disproportionate where the banking organization's underwriting and cash flow analysis are predominantly asset-based and any outside support is ancillary.

Warehouse facilities and loan-on-loan structures typically rely on asset cash flows, pool eligibility criteria, overcollateralization, and advance rate haircuts as primary performance determinants, with limited guarantees addressing narrow, short-term risks rather than substituting for asset performance. Calibrating eligibility to "primarily" asset dependence would avoid overbroad disqualification of structures that are fundamentally asset-backed in substance, and would be consistent with the Federal Regulators' broader aim to enhance risk sensitivity and to avoid cliff effects.

Therefore, we request that the Federal Regulators omit the term "solely" from the definitions of traditional securitization and synthetic securitization. In the alternative, we urge the Federal Regulators to permit securitization treatment where the performance of the banking organization's exposure depends "primarily" or "predominantly" on the performance of the underlying assets, with little to no credit given to the existence of limited external support in underwriting. This approach is consistent with the limited rationale provided in the preambles to the Proposals⁶ and would allow banking organizations to continue recognizing securitization treatment on lender financing structures where they have obtained ancillary credit support from a sponsor or originator.

Additionally, we are supportive of the provisions of the Proposals that would lower the risk weight floor for senior securitization exposures from 20% to 15%. This is consistent with the Basel Committee's risk weight floor for securitizations and appropriately reflects the credit risk of such exposures.⁷ However, the Proposals would leave the risk weight for all non-subordinated, non-equity exposures to housing-related GSEs at 20%. A senior private-label CMBS tranche could thus achieve a risk weight as low as 15%, while Agency CMBS issued or guaranteed by GSEs would remain at 20%.

It is not clear from the Proposals why a credit exposure to a GSE warrants a higher risk weight than an exposure to a senior securitization issued by a private party. This disparity may disincentivize investment in Agency CMBS, creating an unjustified, unlevel playing field. Additionally, making exposures to GSEs less attractive than exposures to similar types of private securitizations could undermine the progress the GSEs have made toward achieving their affordable housing goals.

We request that the Federal Regulators reduce the risk weight for non-subordinated, non-equity GSE exposures to 10%-15%, at least during the GSE conservatorships, and re-evaluate the appropriate risk weight once it is known what form the GSEs will take after exiting conservatorship. This adjustment would promote competitive neutrality, maintain progress

⁶ The preambles note that when a sponsor provides a program-wide credit enhancement that covers "all credit losses," the investors in the securitization are "primarily exposed to the default risk of the sponsor." Under that logic, a credit enhancement that covers less than all credit losses will at some point result in the investors being primarily exposed to the credit risk of the underlying assets.

⁷ Basel Committee, CRE 41.15, https://www.bis.org/basel_framework/chapter/CRE/41.htm.

toward affordable housing goals, and avoid regulatory arbitrage disconnected from underlying credit risk.

D. Commitments: Definition, Credit Conversion, and Warehouse Facilities.⁸

Both Proposals would significantly broaden the definition of “commitment” from “any legally binding arrangement that obligates a banking organization to extend credit or to purchase assets” to include “any contractual arrangement under which a banking organization and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes, whether or not such arrangement is unconditionally cancelable.” This expanded definition would capture advised lines and uncommitted facilities that previously were not subject to a capital charge, even if they are unconditionally cancelable.

The Basel III Proposal would raise the CCF for unconditionally cancelable commitments from 0% to 10%. Both Proposals would also replace the existing 20% and 50% maturity-based credit conversion factors for commitments that are not unconditionally cancelable with a single 40% CCF regardless of maturity. Further, for undrawn commitments with no pre-set limit, the Standardized Approach Proposal would assign an exposure amount based on the highest drawn amount over the previous 24 months.

Given that most CRE warehouse facilities are currently uncommitted, the expanded commitment definition combined with the new CCFs could subject these facilities to capital charges that are burdensome and not commensurate with their risk profile. Our members report that draws on commercial warehouse facilities are far from automatic and require substantial engagement and assessment through a bank’s due diligence process, with some loans being rejected from placement in lending warehouse facilities.

Warehouse lending facilities are essential to securitization because they allow lenders to accumulate loans that can be efficiently transformed into asset-backed securities. Without warehouse lending facilities, there would be fewer financing opportunities available to lenders and borrowers, and securitizations would become more expensive to execute. Applying punitive capital charges to secured CRE warehouse facilities could cause more banking organizations to exit this essential product, decreasing CRE lending and likely increasing nonbank involvement.

We request that the Federal Regulators retain the current definition of a commitment and limit the 10% CCF for unconditionally cancelable commitments to consumer and non-real estate exposures given the substantial underwriting involved in each CRE warehouse advance, thereby preserving a 0% CCF for unconditionally cancelable secured CRE warehouse facilities and avoiding imputed exposure methodologies that overstate undrawn risk for collateralized CRE lines.

⁸ This section responds to Questions 30, 31, and 32 of the Basel III Proposal and Questions 14, 15, 18, and 21 of the Standardized Approach Proposal.

E. Mortgage Servicing Rights.⁹

The Proposals would change mortgage servicing right (“MSR”) capital requirements by removing the requirement to deduct from CET1 capital the amount of MSRs exceeding 10% or 25% of the organization’s CET1 capital. Instead, all MSR exposures would be risk-weighted at 250%.¹⁰

CREFC supports eliminating the CET1 deduction thresholds because doing so removes a significant regulatory disincentive for bank participation in mortgage servicing and origination. At the same time, we encourage the Federal Regulators to evaluate whether the 250% risk weight overstates the risk of MSR exposures relative to other assets. The 250% risk weight is substantially higher than the risk weights for assets with comparable or higher credit risk profiles. MSRs were risk-weighted at 100% under the original Basel I framework, and the 250% weight was established in 2013 without empirical justification. Given that the Proposals explicitly request comment on the appropriate MSR risk weight, we encourage the Federal Regulators to reduce the risk weight to no more than 100% based on historical MSR performance data, valuation dispersion analysis, and realized loss history during periods of market stress, including the 2008 financial crisis.

Notably, MSRs for CRE loans have certain structural elements that demonstrate their low volatility and high stability through market cycles.

First, CRE loans and CMBS include clauses that restrict borrowers from prepaying, including yield maintenance, defeasance, and lockout provisions. This means that banks holding MSRs for CRE loans are unlikely to incur losses from early payment of the related credit exposure. Additionally, as the servicing fees from MSRs do not change with external rate changes, the payments that bank servicers receive are stable and highly predictable.

Second, MSRs are an intangible asset that amortizes down in value over the estimated life of the related loan. As with other intangible assets, MSRs are evaluated periodically, typically quarterly, for impairment and marked to market on a fair value basis. This is similar to the ongoing valuation of loans and other exposures subject to the 100% risk weight (which, as noted above, is the risk weight that was assigned to MSRs prior to the 2013 revisions to the capital requirements).

Therefore, the Federal Regulators should reduce the risk weight for MSRs to no more than 100%.

F. Risk Weighting of High-LTV CRE Exposures Relative to Corporate Loans.¹¹

Under the Basel III Proposal, regulatory CRE exposures that are dependent on cash flows generated by the property would receive a 110% risk weight when LTV exceeds 80%. By

⁹ This section responds to Question 11 of the Basel III Proposal and Question 1 of the Standardized Approach Proposal.

¹⁰ The removal of the threshold-based deduction for MSRs also would positively impact banking organizations that are subject to the CBLR framework, even though they are not subject to risk-based capital requirements.

¹¹ This section responds to Question 19 of the Basel III Proposal.

contrast, unsecured corporate exposures receive a maximum risk weight of 100%, or 65% for investment-grade obligors. This creates a counterintuitive result in that an unsecured corporate loan could receive a lower risk weight than a loan fully secured by CRE.

While LTV and cash-flow dependence are appropriate risk drivers, the 110% risk weight for high-LTV, cash-flow-dependent CRE implies harsher treatment than general unsecured corporate lending, which could discourage prudent CRE restructuring and refinancing in favor of risk migration to nonbanks. This suggests that a bank would be better off from a capital perspective making an unsecured corporate loan than a secured loan with a substantial equity cushion, even when the collateralized exposure has a lower expected loss. We request that the Federal Regulators reduce the maximum risk weight for cash-flow-dependent regulatory CRE exposures to 100%, so that collateralized real estate credit does not attract higher capital than unsecured corporate credit while still differentiating by LTV.¹²

G. Risk Weighting of LIHTC Investments.¹³

Under the Basel-based capital framework, equity exposures generally are risk-weighted under the simple risk-weight approach (“SRWA”). An equity exposure qualifying as a community development investment under Section 24(Eleventh) of the National Bank Act receives a 100% risk weight.¹⁴ Bank investments in Low-Income Housing Tax Credit (“LIHTC”) housing developments are typically booked and supervised as community development investments and therefore receive this 100% risk weight. By contrast, the SRWA assigns only a 20% risk weight to equity exposures to public sector entities (“PSEs”), reflecting the public purpose, governmental involvement, and historically observed credit performance of those exposures.

The current 100% risk weight for LIHTC investments is problematic because it treats tax-credit-driven, public-purpose investments as if they were ordinary private equity exposures, even though their economics and risk drivers are fundamentally linked to federal tax credits and compliance with federal law. In Question 83 of the Basel III Proposal, the Federal Regulators themselves flagged “certain tax equity financing transactions” as a distinct category that could be considered for specific risk-weight treatment, acknowledging that tax equity exposures do not fit neatly within the general equity buckets. LIHTC investments have a risk profile more closely resembling a governmental or quasi-governmental program exposure than a conventional equity

¹² If the more granular risk weights for CRE exposures are added to the Standardized Approach Proposal, then the ceiling for regulatory CRE exposures of Category III and IV banking organizations and smaller, non-CBLR banking organizations should be set at 95% to align with the proposed general corporate risk weight.

¹³ This section responds to Questions 82, 83, and 198 of the Basel III Proposal and Question 58 of the Standardized Approach Proposal.

¹⁴ The public welfare investment (“PWI”) authority under Section 24(Eleventh) of the National Bank Act and comparable provisions of the Federal Reserve Act permits banking organizations to make investments that primarily benefit low- and moderate-income individuals or promote the public welfare. Such investments are currently subject to a cap of 15% of unimpaired capital and surplus. Section 204 of the pending 21st Century ROAD to Housing Act (H.R. 6644) would increase the PWI cap from 15% to 20%. If Congress enacts this expansion of PWI authority, the Federal Regulators should revisit the 100% risk weight currently assigned to qualifying community development investments to ensure that capital requirements are calibrated appropriately to reflect the expanded statutory limits and the demonstrated public benefit of these investments.

investment, because the principal source of return is the stream of tax credits authorized by federal law, not residual asset appreciation or speculative earnings.

This miscalibration has practical consequences. Higher capital charges dampen banking organizations' willingness and capacity to provide LIHTC equity at the scale needed to meet affordable housing goals. The Federal Regulators have acknowledged in related contexts that risk-weight calibrations can affect credit availability and borrower costs, particularly in housing markets serving low- and moderate-income households. The same logic applies here: assigning an unnecessarily high risk weight raises the cost of capital and can chill participation in a market essential to delivering new affordable housing supply.

Reducing the risk weight would encourage banks to increase their participation in LIHTC investments, directly advancing public policy objectives related to affordable housing and community development. This aligns with the goals of the Community Reinvestment Act and supports broader financial inclusion efforts. Recent legislative and administrative efforts to expand housing supply (*e.g.*, reducing the 50% test to 25% in the One Big Beautiful Bill Act and the proposed Public Welfare Investment cap increase in the 21st Century ROAD to Housing Act) are undermined by capital requirements that continue to be the binding constraint for banks that want to finance more affordable housing. Recent Novogradac LIHTC Equity Pricing Trends Reports indicate that on average the dollar price per LIHTC has fallen from \$0.85 in July 2025 to \$0.83 in March 2026. Reducing the risk weight could increase overall production in the market and increase LIHTC pricing to help offset increased construction costs and decrease federal and local subsidies without requiring changes to the tax code.

LIHTC-associated debt exposures are supported by the same public structures that deliver LIHTC projects' predictable cash flows, collateralized by stabilized multifamily assets and governed by standard underwriting, servicing, and enforcement mechanisms. In many instances, the debt is supported by contracted rent (Section 8, for example) or has other government support (vouchers, subsidies, etc.) which drive low default rates in the debt that finances these projects. The consistently strong performance of LIHTC-financed properties suggests that senior debt in these structures benefits from both underlying asset strength and a substantial equity cushion. Accordingly, LIHTC debt exposures should also be calibrated appropriately within the capital framework.

We respectfully request that the Federal Regulators permit banking organizations to treat qualifying equity and debt investments in LIHTC housing developments as exposures to a PSE for purposes of risk-weighting under the Basel-based capital framework. Specifically, qualifying LIHTC equity and debt exposures should receive the same 20% risk weight that the SRWA and general credit risk weights assign to exposures to PSEs, reflecting the public purpose and government-backed nature of the return stream. This change could be implemented by amending the definition of PSE to clarify that an obligor that satisfies the LIHTC program criteria is a PSE.

H. Multifamily Loan Classification.¹⁵

Multifamily mortgage loans have a strong history and were among the best-performing bank loans during the Global Financial Crisis. Congress recognized the important role of multifamily loans in 1991 by establishing a special, lower risk weight for “statutory” multifamily loans under the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. The Federal Regulators further clarified the treatment of statutory multifamily loans in 2015 through their Frequently Asked Questions on the Regulatory Capital Rule.

We encourage the Federal Regulators to continue streamlining the process for banks to classify additional multifamily loans under the statutory multifamily risk weight, ensuring banks can receive the 50% risk weight as efficiently as possible. One such step would be to clarify that exposures to multifamily loans that are underwritten to GSE standards and sold to the enterprises are treated as analogous to statutory multifamily loans and receive the same risk weights at the time of origination. These government-backed loans have a strong credit history and the appropriate treatment is important for the period during which such loans reside on a bank’s balance sheet, and after the sale, as a determinant of look-through treatment in an institution’s ongoing relationship with the loan for guarantee and other activities.

To ensure capital requirements more accurately reflect the economic risk of multifamily programs, we respectfully request that the Federal Regulators clarify that exposures to multifamily mortgages purchased by Fannie Mae or Freddie Mac be immediately treated as equivalent to statutory multifamily loans and subject to a 50% risk weight, at least during the GSE conservatorships, and re-evaluate the appropriate risk weight once it is known what form the GSEs will take after exiting conservatorship.

* * *

We support a safe, sound, and resilient approach to banking regulation, including capital rules that ensure banking organizations can withstand financial stress. The Proposals represent a significant improvement over the 2023 Proposal and incorporate many changes that CREFC and other industry participants advocated. However, targeted refinements remain necessary to appropriately calibrate CRE capital requirements, preserve essential financing and risk transfer channels, and avoid unintended consequences. The CRE market is a large and essential part of the U.S. economy and financial system, and the final rules must support rather than impair its functioning. We strongly urge you to consider the requests in this letter.

Please feel free to contact Sairah Burki at SBurki@crefc.org with any questions.

Sincerely,



President & CEO
CRE Finance Council

¹⁵ This section responds to Questions 23 and 198 of the Basel III Proposal and Questions 9, 12, and 58 of the Standardized Approach Proposal.

Recommended Changes to Proposal Text

I. Basel III Proposal

A. Risk-Sensitive CRE Risk Weights for All Banking Organizations.

No changes recommended.

B. Scope of “Regulatory Commercial Real Estate” Definition.

___.101

Real estate exposure means an exposure that is neither a sovereign exposure nor an exposure to a PSE and that is:

(2) An exposure that is primarily secured by a direct or indirect interest in collateral in the form of real estate;

Regulatory commercial real estate exposure means a real estate exposure that is not a regulatory residential real estate exposure, an ADC exposure, a pre-sold construction loan, a statutory multifamily mortgage, or an HVCRE exposure, and that meets the following criteria:

(1) The exposure must be primarily secured by a direct or indirect interest in fully completed real estate;

(2) The [BANKING ORGANIZATION] directly or indirectly, including through a participating interest, holds a first priority security interest in the property that is legally enforceable in all relevant jurisdictions; provided that when the same lender the [BANKING ORGANIZATION] also holds a junior security interest in the same property and no other party holds an intervening security interest, the lender [BANKING ORGANIZATION] must treat the exposures as a single regulatory commercial real estate exposure;

(3) The exposure is made in accordance with prudent underwriting standards, including standards relating to the loan amount as a percent of the value of the property;

(4) During underwriting of the loan, the [BANKING ORGANIZATION] or loan originator must have applied underwriting policies that took into account the ability of the borrower to repay in a timely manner based on clear and measurable underwriting

standards that enable the m [BANKING ORGANIZATION] to evaluate relevant credit factors;

C. Securitization Eligibility, Calibration, and Competitive Neutrality.

__.101

Synthetic securitization means a transaction in which:

(3) Performance of the securitization exposures depends **solely** upon the performance of the underlying exposures; and

Traditional securitization means a transaction in which:

(3) Performance of the securitization exposures depends **solely** upon the performance of the underlying exposures;

__.111

(c) *Exposures to GSEs.* (1) A [BANKING ORGANIZATION] must assign a **10 20** percent risk weight to an exposure to a GSE that is not:

(i) An equity exposure; or

(ii) A subordinated exposure.

D. Commitments: Definition, Credit Conversion, and Warehouse Facilities.

__.2

Commitment means any legally binding arrangement that obligates a [BANKING ORGANIZATION] to extend credit or to purchase assets a contractual arrangement, under which a [BANKING ORGANIZATION] and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the [BANKING ORGANIZATION], whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that a [BANKING ORGANIZATION] is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a [BANKING ORGANIZATION], at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).

Unconditionally cancelable means with respect to a commitment, that a [BANKING ORGANIZATION] may, at any time, with or without cause, refuse to extend credit under the commitment (to the extent permitted under applicable law).

__ .112

(b) *Credit conversion factors* —

(1) Zero percent CCF. A [BANKING ORGANIZATION] must apply a zero percent CCF to the unused portion of a commitment to make an exposure that is not a retail exposure and that is unconditionally cancelable by the [BANKING ORGANIZATION].

(2) 10 percent CCF. A [BANKING ORGANIZATION] must apply a 10 percent CCF to the unused portion of a commitment to make a retail exposure that is unconditionally cancelable by the [BANKING ORGANIZATION].

(3) 20 percent CCF.

(4) 40 percent CCF.

(5) 50 percent CCF.

(6) 100 percent CCF.

E. Mortgage Servicing Rights.

___.111

(4) A [BANKING ORGANIZATION] must assign a 250 percent risk weight to:

~~(i) MSAs; and~~

~~(ii) the portion of DTAs arising from temporary differences that the [BANKING ORGANIZATION] could not realize through net operating loss carrybacks to the extent such DTAs are not deducted from common equity tier 1 capital pursuant to § __.22(d).~~

F. Risk Weighting of High-LTV CRE Exposures Relative to Corporate Loans.

___.111

Table 8 to § __.111—Risk Weights for Regulatory Commercial Real Estate Exposures Dependent on Real Estate Cash Flows

	LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	LTV ratio > 80%
Risk weight	70%	90%	140% 100%

G. Risk Weighting of LIHTC Investments.

___.2

Public sector entity (PSE) means:

(1) a state, local authority, or other governmental subdivision below the sovereign level;
or

(2) an entity that directly or indirectly owns or will own a material interest in one or more qualified low income buildings for purposes of 26 U.S.C. § 42 that constitute or will constitute substantially all of its assets.

H. Definition of Statutory Multifamily Mortgage.

___.111

(f) *Real estate exposures* —(1) ~~Statutory~~ Multifamily mortgages. A [BANKING ORGANIZATION] must assign a 50 percent risk weight to (1) a statutory multifamily mortgage; or (2) an exposure to a person to whom the [BANKING ORGANIZATION] has a loss-sharing obligation imposed pursuant to the Delegated Underwriting and Servicing program operated by the Federal National Mortgage Association pursuant to 12 U.S.C. § 1717(b)(2) or the Optigo program operated by the Federal Home Loan Mortgage Corporation pursuant to 12 U.S.C. § 1454(a)(1).

II. Standardized Approach Proposal

A. Risk-Sensitive CRE Risk Weights for All Banking Organizations.

We recommend that the Federal Regulators adopt the same risk weights for regulatory commercial real estate exposures as in the Basel III Proposal, subject to the change we recommend below.

B. Scope of “Regulatory Commercial Real Estate” Definition.

We recommend that the Federal Regulators adopt the same definitions as in the Basel III Proposal, subject to the changes we recommend above.

C. Securitization Eligibility, Calibration, and Competitive Neutrality.

___.2

Synthetic securitization means a transaction in which:

(3) Performance of the securitization exposures depends ~~solely~~ upon the performance of the underlying exposures; and

Traditional securitization means a transaction in which:

(3) Performance of the securitization exposures depends ~~solely~~ upon the performance of the underlying exposures;

__32

(c) *Exposures to GSEs.*

(1) A [BANKING ORGANIZATION] must assign a ~~10~~ 20 percent risk weight to an exposure to a GSE other than an equity exposure or preferred stock.

D. Commitments: Definition, Credit Conversion, and Warehouse Facilities.

__2

Commitment means ~~any legally binding arrangement that obligates a [BANKING ORGANIZATION] to extend credit or to purchase assets a contractual arrangement, under which a [BANKING ORGANIZATION] and an obligor agree to terms applicable to one or more future extensions of credit, purchases of assets, or issuances of credit substitutes by the [BANKING ORGANIZATION], whether or not such arrangement is unconditionally cancelable. A commitment is unconditionally cancelable if, by its terms, it either: (a) provides that a [BANKING ORGANIZATION] is not obligated to extend credit, purchase assets, or issue credit substitutes; or (b) permits a [BANKING ORGANIZATION], at any time, with or without cause, to refuse to extend credit, purchase assets, or issue credit substitutes under the arrangement (to the extent permitted under applicable law).~~

Unconditionally cancelable means ~~with respect to a commitment, that a [BANKING ORGANIZATION] may, at any time, with or without cause, refuse to extend credit under the commitment (to the extent permitted under applicable law).~~

__33

(a) *General.*

(5) For purposes of this section if a commitment to make an exposure subject to ~~§ .32(f)(1) or § .32(l)(5)~~ does not have an express contractual maximum amount that can be drawn, the committed but undrawn amount of the commitment is equal to the highest total drawn amount over the period since the commitment was created or the prior 24 months, whichever period is shorter, minus the current drawn amount.

E. Mortgage Servicing Rights.

§ .32

(4) A [BANKING ORGANIZATION] must assign a 250 percent risk weight to:

~~(i) MSAs; and~~

~~(ii) ¶~~ the portion of DTAs arising from temporary differences that the [BANKING ORGANIZATION] could not realize through net operating loss carrybacks to the extent such DTAs are not deducted from common equity tier 1 capital pursuant to § __.22(d).

F. Risk Weighting of High-LTV CRE Exposures Relative to Corporate Loans.

§ .33

Table __ to § __.33—Risk Weights for Regulatory Commercial Real Estate Exposures Dependent on Real Estate Cash Flows

	LTV ratio ≤ 60%	60% < LTV ratio ≤ 80%	LTV ratio > 80%
Risk weight	70%	90%	110% <u>95%</u>

G. Risk Weighting of LIHTC Investments.

We recommend that the Federal Regulators adopt the same definition as in the Basel III Proposal, subject to the changes we recommend above.

H. Definition of Statutory Multifamily Mortgage.

§ .32

(i) ~~Statutory~~ Multifamily mortgages. A Board-regulated institution must assign a 50 percent risk weight to (1) a statutory multifamily mortgage; or (2) an exposure to a person to whom the [BANKING ORGANIZATION] has a loss-sharing obligation imposed pursuant to the Delegated Underwriting and Servicing program operated by the Federal National Mortgage Association pursuant to 12 U.S.C. § 1717(b)(2) or the Optigo program operated by the Federal Home Loan Mortgage Corporation pursuant to 12 U.S.C. § 1454(a)(1).
