



United States House of Representatives
One Hundred Eighteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

October 20, 2023

The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G Street NW
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to request that the Government Accountability Office (GAO) assistance in evaluating the role each federal banking agency played in the development of the international capital standards commonly known as “Basel III Endgame” that were finalized by the Basel Committee on Banking Supervision (BCBS) in 2017¹ and 2019 respectively.²

On July 27, 2023, the federal banking agencies, including the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC), issued a notice of proposed rulemaking (NPR) that would substantially revise the capital requirements of large U.S. banking organizations with an aim to implement the Basel III Endgame. These requirements would fundamentally change the policy of the U.S. banking system. Yet, Congress has very little insight into the basis of such policy changes. The negotiations and “agreements” made by representatives of the federal banking regulators during the BCBS deliberations are opaque. While such agreements are not binding, are not treaties, and have no force in U.S. law, U.S. federal banking agencies are now using the standards as the basis for rulemaking impacting trillions of dollars in U.S. and global resource allocations.

Congress has long had concerns about transparency at the Basel Committee. Forty years ago, Congress mandated that each federal banking agency establish minimum levels of risk-based capital. In doing so, federal banking regulators encouraged their international counterparts to do the same. However, Congress expressed concerns with the lack of transparency, accountability, and other risk posed by international forums such as the BCBS and authorized GAO to audit each federal banking agency’s participation in the international forums.³

¹ BCBS, *Basel III: Finalising Post-Crisis Reforms* (Dec. 2017).

² BCBS, *Minimum Capital Requirements for Market Risk* (revised, Feb. 2019).

³ International Lending Supervision Act of 1983, Pub. L. No. 98-181, § 908(b)(3), 97 Stat. 1278, 1280 (codified at 12 U.S.C. § 3907(b)(3)); *id.* § 911(a)(2), 97 Stat. at 1282-83 (codified at 12 U.S.C. § 3910(a)(2)).

Similarly, we are requesting that you evaluate each federal banking agency’s participation in the development of Basel III Endgame. GAO’s evaluation should include:

- A summary of each material proposal submitted by a federal banking agency to the Basel Committee (including the secretariat or any technical working group, task force, or other effort coordinated by the Basel Committee) in connection with the development of Basel III Endgame (each such proposal, a “U.S. Endgame proposal”).
- A summary of concerns raised by a federal banking agency with respect to a consultative document or other proposal considered by the Basel Committee (including the secretariat or any technical working group, task force, or other effort coordinated by or through the Basel Committee (including the secretariat or any technical working group, task force, or other effort coordinated by or through the Basel Committee) with respect to each U.S. Endgame proposal and U.S. Endgame concern, with a particular focus on whether the Basel Committee offered a considered rationale for rejecting, or not otherwise accepting, that U.S. Endgame proposal or U.S. Endgame concern (each such response, a “Basel Committee response”).

GAO’s evaluation should prioritize each U.S. Endgame proposal, U.S. Endgame concern, or Basel Committee response relating to:

- Any U.S. Endgame proposal or U.S. Endgame concern that did not receive a fulsome Basel Committee response.
- The evidence or other rationale supporting the Basel III Endgame requirement that a corporate entity (or its parent) must have securities outstanding on a recognized securities exchange for an exposure to that entity (or parent) to be eligible for the reduced risk weight for investment-grade corporate exposures.⁴
- The absence of a tailored approach to high-fee revenue banks under the Basel III Endgame business-indicator approach to operational risk capital. This includes the rationale for not finalizing the tailored approach for high-fee revenue banks that was contemplated by the last Basel Committee consultative document on operational risk capital.⁵
- The calibration of the scaling factor, multiplier, dampener, and other coefficients for that business-indicator approach, including any correspondence relating to the significant evolution in those coefficients after the 2016 Basel Committee consultative document. GAO should evaluate whether it would have been appropriate to refit or otherwise revise those coefficients following the changes in the specification of the underlying formula.

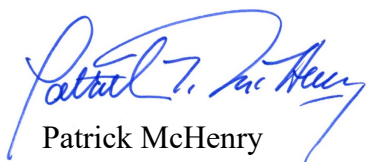
⁴ Basel Committee, *Basel III: Finalizing Post-Crisis Reforms*, ¶ 42, at 13 (Dec. 2017).

⁵ The first Basel Committee consultative document acknowledged that the business-indicator approach “does not lend itself to accurate application in the case of banks engaged predominantly in fee-based activities.” Basel Committee, *Consultative Document: Operational risk – Revisions to the simpler approaches* ¶ 46, at 16 (2014). The second consultative document reiterated that the approach resulted in “overcapitalization of banks with high fee revenues and expenses.” Basel Committee, *Consultative Document: Standardised measurement approach for operational risk* ¶ 16(d), at 4 (2016). It also proposed a fix. *Id.* ¶ 20, at 4. But that fix was then quietly dropped from the final Basel III standards without public explanation.

- The calibration of the correlation factors and the profit-and-loss attribution test thresholds for the models-based measure of market risk capital, including any correspondences relating to the use of simulated profit-and-loss data and the rationale for not adopting a transition period or other approach to recalibrating those correlation factors and thresholds after collecting actual profit-and-loss data.⁶

We appreciate your prompt attention to this request. If you have any questions, please do not hesitate to contact Jeff Wrase at Jeff.Wrase@mail.house.gov.

Sincerely,



Patrick McHenry
Chairman
Financial Services Committee



Andy Barr
Chairman
Subcommittee on Financial
Institutions and Monetary Policy

⁶ The Basel Committee's consultative document committed to revising the preliminary calibration of the profit-and-loss attribution-test thresholds for amber zone and red zone. Basel Committee, *Consultative Document: Revisions to the minimum capital requirements for market risk* § 2.1.3, at 8 (2014) ("Upon finalization of the traffic light approach into the market risk standard, the Basel Committee will continue to monitor the effectiveness of the finalized calibration of the thresholds to ensure their appropriateness."). Those thresholds were not updated in the final Basel III Endgame standards, and there was no public-domain suggestion that the Basel Committee revisit those thresholds.