June 18, 2026

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Secretary
Board of Governors of the Federal Reserve System
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Federal Deposit Insurance Corporation
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Chief Counsel's Office
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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. R-1887, RIN 7100-AH20; OCC Docket ID OCC-2026-0265; FDIC RIN 3064–AF29)

Dear Sirs and Madams:

The Futures Industry Association ("FIA")[1] appreciates the opportunity to comment on the federal banking agencies' proposal (the "Proposal") to revise capital standards for Category I and II banking organizations, including to implement Basel III's enhanced risk-based approach ("ERBA") in the United States.[2]

At the outset, FIA commends the agencies for the thoughtful and constructive revisions they have made to their prior capital proposals from 2023.[3] The Proposal reflects several

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[1] FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA's mission is to: support open, transparent and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct. As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets.

[2] 91 Fed. Reg. 14,952 (Mar. 27, 2026).

[3] *See* Regulatory Capital Rule: Large Banking Organizations and Banking Organizations With Significant Trading Activity, 88 Fed. Reg. 64,028 (Sept. 18, 2023); Regulatory Capital Rule: Risk-Based

(continued…)

meaningful improvements that will enhance risk sensitivity, including, among other things: excluding client-facing derivative exposures from the credit valuation adjustment ("CVA") framework; permitting the netting of settled-to-market ("STM") and collateralized-to-market ("CTM") derivative exposures; introducing a framework to permit cross-product netting; calculating operational risk capital charges for fee-based businesses with reference to net income, rather than gross revenues or expenses; and omitting the requirement that an investment-grade obligor be publicly traded to be eligible for a lower risk weight. Taken together, these changes represent important progress toward ensuring that bank capital standards do not unnecessarily discourage central clearing of derivatives. As the U.S. banking regulators have consistently observed, they have a responsibility to ensure that prudential requirements support, rather than undermine, the use of central clearing as a tool to reduce systemic risk.[4]

Consistent with that objective, FIA generally supports the Proposal and encourages the agencies to finalize it. In this letter, we offer recommendations on a limited number of technical aspects of ERBA that, in our view, would further improve the Proposal's coherence and risk sensitivity, while preserving its overall structure and policy objectives. Our comments focus on the following targeted areas:

- revisions to the proposed cross-product netting methodology to ensure that the risk-reducing benefits of cross-product netting are appropriately reflected in the framework, and clarification that if a banking organization elects to use cross-product netting for purposes of calculating risk-weighted assets ("RWA"), that election will not automatically apply to calculations under the Supplementary Leverage Ratio ("SLR");

- expansion of the scope of transactions eligible for cross-product netting to include eligible margin loans and cleared (that is, "house") transactions;

- refinement of the existing operational criteria for cleared transactions to eliminate incentives for depository institutions to seek clearing services from third parties rather than affiliates;

- finalization of a framework for reflecting cross-margining agreements in the calculation of Kccp, with revisions to the proposed allocation methodology; and

- clarification that the existing 1.0 alpha factor for derivative transactions with commercial end users will be maintained.[5]

Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), 88 Fed. Reg. 60,385 (Sept. 1, 2023).

[4] *See, e.g.*, Federal Reserve Board Governor Jerome H. Powell, Central Clearing and Liquidity, Speech at the Federal Reserve Bank of Chicago Symposium on Central Clearing, Chicago, Illinois (June 23, 2017), *available at* https://www.federalreserve.gov/newsevents/speech/powell20170623a.htm.

[5] In addition, we support a framework for enabling the decomposition of index options and options on ETFs, as discussed more fully in the comment letter submitted by Cboe Global Markets.

After providing an overview of client clearing and how it reduces risk to banking organizations and the financial system, we discuss each of these points in turn below.

I. Regulators Encourage Client Clearing Because It Reduces Systemic Risk in the Aggregate and Is a Low-Risk Activity for Clearing Members

A wide variety of businesses across many different sectors, including agricultural businesses, insurance companies, and pension funds, use derivatives to reduce their risks from various economic activities. To promote continued and expanded access to derivatives by these end users, the agencies should consider the following principles as they move to finalize the Proposal and consider enhancements to improve its risk sensitivity:

- **U.S. and global policies are intended to incentivize client clearing**. To promote the continued, long-term availability of beneficial hedging activity, regulators have promoted central clearing of derivatives as a key element to financial reform because it greatly reduces risk in the financial system that could arise from financial institutions' role in providing their clients access to swaps and futures.[6] Today, a majority of OTC derivative products are centrally cleared through regulated clearinghouses and a growing number of derivatives are traded on regulated trading venues,[7] bringing more transparency and oversight to these markets than ever before, and substantially reducing their complexity.

- **Client clearing decreases systemic risk.** Central clearing helps to mitigate systemic risk and provides transparency by replacing the complex web of bilateral ties between market participants with a more transparent central counterparty ("CCP") system. This system reduces the number of entities to which market participants are exposed, and also reduces systemic risk by facilitating the transfer (or "port") of the positions (and collateral) of a defaulting clearing member's clients to other, financially sound clearing members in a simple and rapid manner, with the goal of preserving the end-users' positions while protecting any collateral pledged.

- **Client clearing is fundamentally a low-risk activity for the clearing member.** Not only does client clearing reduce systemic risk in the aggregate, it also does not create outsized risks for clearing members. Under the agency model of clearing that is prevalent in the United States, a banking organization acts as agent for its client, which

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[6] The Pittsburgh G20 commitments of 2009 establish a clear policy that mandatory clearing of certain derivatives is essential to improving risk management and promoting financial stability. Among other elements of this policy, the G20 commitments endorse lower capital requirements for cleared derivatives. *See* Leaders' Statement, The Pittsburgh Summit, September 24-25 2009, *available at* https://www.oecd.org/g20/summits/pittsburgh/G20-Pittsburgh-Leaders-Declaration.pdf. The Dodd-Frank Act translated the G20 policy goal of promoting central clearing into binding requirements in the United States.

[7] *See* Bank for International Settlements, Quarterly Review, International Banking and Financial Market Developments (Dec. 2025), *available at* https://www.bis.org/publ/qtrpdf/r_qt2512.htm (noting that "more than half of both outstanding OTC [interest rate] derivatives and credit derivatives are centrally cleared.").

enters into the OTC derivative transaction directly with a CCP. The banking organization typically guarantees the client's performance to the CCP, but not the CCP's performance to the client. Several features of client clearing protect the clearing member against the risk that its client would default on its obligation to the CCP without having posted sufficient margin to cover the client's payment obligation, requiring the clearing member to perform on its guarantee to the CCP. First, on a daily or twice-daily basis, the client is either required to post variation margin in the form of cash to secure the full amount that it is out of the money on the derivative on a mark-to-market basis (in a CTM trade) or is required to provide an equivalent cash payment to settle the derivative (in an STM trade), and in either case this practice eliminates the clearing member's actual current exposure to the client at the time the variation margin is posted or payment is made. Second, the client is also required to post initial margin in the form of cash or highly liquid securities to secure the clearing member's exposure to movement in market prices, in an amount based on the volatility of the derivative but in excess of the expected change in value of the client's position,[8] which reduces the clearing member's actual potential future exposure. Third, clearing members pre-fund the loss mutualization that would arise from the default of another clearing member with default fund contributions. CCPs' own capital and other safeguards further limit losses that clearing members could be forced to incur.

- **The U.S. capital rules impose overlapping capital requirements on banking organizations' clearing activities.** The U.S. capital rules currently impose many overlapping layers of capital requirements relating to derivatives clearing activities. These requirements include risk-based capital requirements for counterparty credit risk requirements, currently in the form of SA-CCR for large banks, and for CCP default fund contributions; leverage capital requirements for counterparty credit risk and the on-balance sheet portion of margin; G-SIB surcharge capital requirements, which capture certain derivatives clearing activities within multiple categories; and stress capital buffer requirements that result from the treatment of derivatives clearing activities within stress test scenarios. Due to these overlapping and significant capital requirements, large banking organizations maintain substantial capital levels to support their clearing businesses. These levels of capitalization are already outsized to the modest risks that derivatives clearing activity poses to clearing members.

- **Disproportionately high capital requirements can cause banking organizations to reduce their clearing activity, which would increase systemic risk.** Excessively high capital requirements for clearing can cause several negative consequences in the market. First, if clearing businesses within banks are unable to meet return on equity targets, they may raise prices beyond the point where clients will find it economical to use cleared derivatives to hedge their risks. Clients may respond by going unhedged, which could increase risk in the financial system. And to the extent that clients pay higher prices and do hedge, they will have fewer resources available to invest in their businesses, and/or will pass the costs to their own clients and consumers. Second, banks could become

[8] *See* 17 C.F.R. § 39.13(g)(2). Clearing members also often have a contractual right to call additional initial margin.

disincentivized from offering clearing services altogether, except possibly as a limited accommodation to clients of other business lines. A reduction in the number of firms willing to serve as clearing members – and to increase their volume of clearing activity, if needed – could increase systemic risk. Porting depends on the presence of a number of clearing members with capacity and willingness to take on additional clients from a failing clearing member in a rapid manner.

With these principles in mind, the remainder of our letter offers targeted suggestions for improving the risk-sensitivity of the Proposal in its application to derivatives clearing and cleared derivatives trading activities.

II. The Agencies Should Revise the Cross-Product Netting Methodology to Ensure That the Risk-Reducing Benefits of Cross-Product Netting Are Appropriately Reflected in the Framework

FIA supports the Proposal's recognition of cross-product netting, including the ability to net client-facing derivatives transactions against repo-style transactions.[9] This recognition appropriately reflects how many banking organizations manage counterparty credit risk and collateral across related products and activities. Increasingly, CCPs have been introducing cross-product margining arrangements to help market participants better manage risk, and the capital rules should encourage the adoption of these risk-reducing mechanisms.

As proposed, however, the cross-product netting calculation methodology would apply a maturity haircut (the "Maturity Ratio" or "MR") that would significantly limit the practical benefits of cross-product netting. The greater the difference in maturity between a derivative and a repo-style transaction, the greater the haircut that would be applied to the netted exposure. Because banking organizations' repo-style transactions are typically overnight or otherwise very short term, while derivatives portfolios often extend for longer durations, the proposed calibration of the Maturity Ratio would materially reduce – and in many cases largely eliminate – the intended capital benefit of cross-product netting. As a result, the Proposal's recognition of cross-product netting may have relatively little effect in real-world portfolios.

To address this issue, FIA endorses the introduction of an adjustment factor, referred to as the hedge coverage ratio ("HCR"), as described in the comment letter on the Proposal that has been submitted by the International Swaps and Derivatives Association and the Securities Industry and Financial Markets Association ("ISDA/SIFMA Comment Letter").

The *HCR* would be applied against the standalone $ExposureAmount_{RST}$ term as follows:

[9] In this letter, we use the terms repo-style transactions and securities financing transactions (or "SFTs") interchangeably.

$$EAD\ Recommended = Maturity\ Ratio * (Extended\ SA - CCR) + (1 - Maturity\ Ratio) * (ExposureAmount_{Derivatives} + ExposureAmount_{SFT} * HCR)$$

Where:

$$HCR = max\left(\frac{max(A_{Extended-SACCR}, A_{SFT}) - A_{Derivatives}}{A_{SFT}}, 0\right)$$

With the condition:

$$HCR = 0\ when\ A_{SFT} = 0$$

In the recommended *HCR* formula, the term *A* refers to the aggregate amount defined in Section 114(g)(2) of the Proposal. For this purpose, A_{SFT} would equal the aggregate amount attributable to all securities collateral in the cross-product netting set, treated as forward sale or forward purchase derivatives, as applicable.

We acknowledge that, in SFT-dominant portfolios where SFTs are not fully offset by derivatives, an approach that includes only $ExposureAmount_{Derivatives}$ in the *(1-MR)* range could understate exposure because the SFT risk would be captured only through the $Maturity\ Ratio * (Extended\ SA - CCR)$ term. However, it is overly conservative to always require a standalone SFT requirement in the *(1-MR)* range regardless of the relative risk factor amount and netting portfolios between the SFT and derivative transactions. Specifically, when the SFT risk is already significantly offset by derivatives, it is not appropriate to require a standalone SFT capital charge for the entirety of the SFT portfolio in the *(1-MR)* range.

To properly control the extent to which the SFT-dominant risks should be accounted for, we recommend the introduction of *HCR*. *HCR* measures the extent to which the risk of the entire portfolio ($A_{Extended-SACCR}$) or the standalone SFT risk (A_{SFT}) exceeds the standalone derivatives risk ($A_{Derivatives}$). A positive difference indicates the extent to which SFT risk is greater than the derivatives risk or is not otherwise offset by the derivative portfolio.

There is conservativism in the calibration under the "EAD Recommended" approach. In balanced risk-offsetting portfolios with a low Maturity Ratio, exposure at default ("EAD") is driven largely by the standalone derivatives exposure amount in the *(1-MR)* range. The *(1-MR)* range calculation is based on the net initial margin received under the cross-margined portfolio. In contrast, a standalone derivatives portfolio would be subject to gross initial margin on the standalone derivatives portfolio, resulting in a materially lower exposure level for the same maturity range. The definition of *MR* under the Proposal reflects a simplifying assumption that short-dated SFTs such as overnight repos would not be rolled. In practice, that assumption is unrealistic because, if the repo were not rolled, the derivative would likely be terminated or, alternatively, the initial margin requirement would increase in tandem with the rise of net trade exposure, as discussed above.

In addition to implementing this recommended formula, the agencies should clarify the definitions of *V*, *C*, and *net independent collateral amount ("NICA")* with respect to the treatment of repo-style transactions and securities collateral. In particular:

- *V* should include only the fair value of the derivative contracts, consistent with its current definition under SA-CCR.

- *C* should reflect the net fair value of collateral received and posted within the cross-product netting set. To the extent securities collateral is already incorporated in the aggregate amount calculation of the $Extended\ SA-CCR$ and A_{SFT}, C should not reflect supervisory market price volatility haircuts, as that would result in double counting these haircuts.

- This same principle also applies to *NICA*.

III. The Final Rule Should Confirm That a Separate Election is Needed to Apply Cross-Product Netting Arrangements to SLR Calculations

The SLR should reflect qualifying cross-product netting arrangements for purposes of calculating derivatives exposures that are eligible for cross-product netting under SA-CCR only if the banking organization separately elects to apply cross-product netting in the SLR context. The proposed cross-product netting framework is designed in the context of RWAs, and could lead to the reporting of higher, not lower, exposure amounts when calculated for purposes of the SLR, even with the revisions we have proposed in this letter. Such an increase in reported exposure would be inconsistent with the real-world exposure-reducing function of cross-product netting arrangements and thus at odds with the underlying rationale for the agencies to have proposed a framework for cross-product netting in SA-CCR.

IV. The Agencies Should Extend Cross-Product Netting to Eligible Margin Loans and Cleared Transactions

The agencies have proposed to exclude margin loans and cleared transactions from the cross-product netting framework on the basis that such transactions are not typically included in cross-product netting sets today.

That reasoning is factually inaccurate as to margin loans, as some banking organizations include them in cross-product netting sets today. Investors and market makers using eligible margin loans may be taking positions both in equities and equity-listed options, the latter of which could create a client-facing derivatives exposure for the banking organization. Specifically, some banking organizations' prime brokerage businesses clear listed options and futures and provide financing to option market makers against the option premium. These clearing services are critical for option market makers and the liquidity of the equity market more general.

A quantitative impact study of market participants, discussed more fully in the ISDA/SIFMA Comment Letter, confirms the prevalence of this practice. The fraction of the

eligible margin loan population in total netting sets subject to qualifying cross-product master netting agreements is 66 percent in terms of EAD and 67 percent in terms of RWAs.[10]

Even for banking organizations that do not currently include margin loans in their netting sets, they may develop the capabilities to do so in the future, particularly if the capital rules allow for eligible margin loans to be included in cross-product netting.

For cleared transactions, which are not generally included in cross-product netting sets today, the agencies' reasoning for excluding these products from the cross-product netting framework is similarly circular. As with margin loans, market participants may work to broaden the scope of their cross-product netting sets to include these products in the future, especially if the capital framework recognized the risk-reducing nature of cross-product netting sets that include them. Clearing businesses would stand to benefit from such recognition, as the RWAs and exposures attributed to the clearing businesses could be lowered based on cross-product netting with clearing member clients that are counterparties on other types of transactions with the banking organization, creating greater capacity for banking organizations to offer clearing services.

More generally, the same economic rationale that the agencies have cited for permitting cross-product netting for client-facing derivatives transactions applies both to margin loans and cleared transactions:

> "Consolidating exposures across products into a single netting set can . . . simplify risk management processes for banking organizations and reduce operational burden. The quantity of netting sets would generally be reduced, as banking organizations would be able to net transactions with multiple products together. Thus, a banking organization's net exposure to a single counterparty typically would be lower, reducing counterparty credit risk. Additionally, cross-product netting allows banking organizations to improve collateral management and expand liquidity efficiency across different product types. Instead of calculating collateral requirements and posting collateral for transactions of each product type (such as derivative and repo-style transactions) separately, cross-product netting allows for collateral requirements to be determined on a net basis for all transaction types in the same netting set. . . . Recognizing cross-product netting in SA-CCR would create capital efficiency for banking organizations, align with banking organizations' risk management practices for counterparty credit risk, and promote smooth market functioning and liquidity."

Including eligible margin loans and cleared transactions in the cross-product netting framework would likewise reduce the quantity of netting sets, and thereby reduce a banking

[10] *See* Appendix 1 to the ISDA/SIFMA Comment Letter.

organization's net exposure to a single counterparty and thus its counterparty credit risk. And doing so would allow banking organizations to determine collateral requirements on a net basis for a broader range of netting sets, thus creating capital efficiency and aligning with risk management practices.

V. The Agencies Should Allow For a Depository Institution's House Trades Cleared Through an Affiliated Clearing Member to Count as Cleared Transactions Notwithstanding the Affiliate's Legal Inability to Segregate Collateral

In order for a banking organization's house trade through a CCP to qualify as a "cleared transaction" under the capital rules, the collateral supporting the transaction must be held in a manner that prevents the banking organization from facing any loss due to an event of default, including from a liquidation, receivership, insolvency, or similar proceeding of either the clearing member or the clearing member's other clients.[11] However, CFTC rules preclude a clearing member from segregating collateral belonging to an affiliate. Therefore, when a depository institution engages in a cleared derivative transaction as a customer of its affiliated clearing member, the depository institution might not be able to determine that the collateral is held in a bankruptcy-remote manner, and thus may be unable to classify the transaction as a cleared transaction. The depository institution may instead be required to treat the transaction as a corporate exposure to its affiliated clearing member, subject to a 100 percent risk weight, rather than the 2 percent risk weight that applies to a qualifying CCP ("QCCP"). While the transaction could be eliminated through accounting consolidation for purposes of its holding company's capital requirements, the depository institution may still need to count the exposure toward its own, standalone capital requirements.

This dynamic can incentivize a depository institution to seek clearing services from an unaffiliated clearing member – so that the transaction can count as a cleared transaction, eligible for a lower risk weight – rather than from its affiliate. In this way, the rules incentivize banking organizations to increase their exposure to each other, undermining the agencies' broader financial stability objectives. To eliminate this perverse incentive, the agencies should revise the operational criteria for cleared transactions to eliminate the requirement of bankruptcy remoteness when the transaction is cleared by an affiliate and the affiliate is legally unable to segregate collateral.

VI. The Final Rule Should Largely Adopt the Proposed Approach to Calculating the Exposure Amount for Derivatives and Repo-Style Transactions That Are Subject to a Valid Cross-Margining Agreement for Purposes of Kccp, with Revisions to the Allocation Methodology

We support the inclusion in the final rule of revisions to the default fund contribution framework's Kccp formula in order to allow clearing member banking organizations to be able to reflect risk-reductions recognized by cross-margining arrangements in the calculation of a QCCP's hypothetical capital requirement.

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[11] *See* 12 C.F.R. § 217.3(a)(2).

Cross-margining arrangements broadly permit market participants to post initial margin to QCCPs based on the aggregate risk of a portfolio containing multiple products. A clearing member's aggregate initial margin requirement for a cross-margining portfolio may be reduced to the extent that there are positions with offsetting risks. Cross-margining arrangements generally include procedures for QCCPs to manage the default of a cross-margining participant and provisions that address how CCPs would share gains and losses in the event of a cross-margining participant default, and data sharing among QCCPs to ensure that each QCCP can calculate initial margin requirements accurately with a view across clearing platforms.

Given these robust safeguards that ensure cross-margining arrangements reduce real-world risk for market participants, the capital rules should recognize the benefit of cross-margining arrangements both to improve risk-sensitivity and to encourage market participants to adopt these risk-reducing practices.

The proposed notional-based allocation methodology, however, would be insufficiently risk sensitive. QCCPs should determine the allocation factor based on how any losses would be shared between the QCCPs in relation to exposures subject to a qualifying cross-margining arrangement in case of a member default. Given that QCCPs, and not clearing member banking organizations, calculate Kccp, such a methodology would still ensure that risk weights that different banks assign to their default fund contributions would still be based on the same allocation factor for a given qualifying cross-margining arrangement even if that allocation factor would be bespoke for this given qualifying cross-margining arrangement.

If, however, the agencies prefer a standardized allocation factor across different qualifying cross-margining arrangements, the allocation factor should be based on the SA-CCR aggregate amount, *i.e.*:

$$AllocationFactor_{i,j} = \frac{A_{i,j}}{\sum A_{i,j}}$$

Compared to a notional-based allocation factor calculation, this formula would more appropriately recognize risk offsets within a single CCP's position and reflect the relative riskiness of the position.

In response to question 47, FIA believes requiring a qualifying cross-margining agreement to be approved by the QCCP's primary regulator would be an appropriate operational criterion. Such a requirement would align with current practices, as QCCPs already obtain approval from their regulators before adopting cross-margining arrangements. A requirement that each banking organization receive a legal opinion or to conduct legal reviews that include due diligence on QCCPs' cross-margining agreements would not be feasible in practice. Banking organizations are not directly part of the cross-margining agreement across the QCCPs that form the basis of the loss sharing arrangements. Additionally, banking organizations rely on each QCCP to calculate and report its Kccp value for use in banking organizations' capital calculations. Finally, such a requirement would be redundant, as QCCPs must adhere to

Principle 1 (Legal Basis) of the Principles for Financial Market Infrastructure, and as such, already must ensure legal enforceability of their contractual arrangements.[12]

VII. Derivatives Transactions Scoped Out of the CVA Framework Should Not Be Counted for Purposes of Determining Whether a Non-Category I or II Banking Organization That Is Subject to the Market Risk Framework Is Also Subject to the CVA Framework

We appreciate and support the Proposal's exclusion of client-facing derivative transactions and cleared transactions from the CVA framework. Consistent with that exclusion, the agencies should also exclude such derivative transactions from the threshold that determines applicability of the CVA framework in the first place, and make related changes to reporting forms as may be needed to facilitate such an exclusion.

Under the Proposal, a non-Category I or II banking organization that is subject to the market risk framework would be subject to the CVA framework if it had $1 trillion or more in notional derivatives outstanding, including derivatives exposures that would not themselves be subject to a CVA capital charge, such as client-facing cleared derivatives. This treatment could incentivize Category III and IV banking organizations to cease or curtail engaging in the clearing of derivatives, given the complexity and capital costs associated with calculating CVA. Omitting derivatives that are exempt from the CVA framework from the $1 trillion threshold would avoid creating these incentives and would be consistent with the agencies' stated goal of "align[ing] the scope of the CVA framework with the scope of instruments that present CVA risk."[13]

VIII. The Agencies Should Maintain the 1.0 Alpha Factor for Commercial End Users

The Proposal appropriately retains the existing 1.0 alpha factor for derivative transactions with commercial end users. While the Proposal asks whether banking organizations should be permitted to apply a higher alpha factor of 1.4 to such counterparties on an optional basis, FIA does not believe there is a practical need for making that option more explicit, as the capital rules already implicitly allow for such treatment. Additionally, banking organizations subject to ERBA already perform a wide range of sophisticated and granular capital calculations. We are not aware of any reason why such firms would elect to apply a higher alpha factor to commercial end users.

Regardless of whether optionality is provided, it is critical that application of the higher alpha factor of 1.4 to commercial end users not be mandatory, particularly given the policy rationale for distinguishing these counterparties in the first instance. The agencies adopted the 1.0 alpha factor for commercial end users because "derivative contracts between banking organizations and commercial end-users may include credit risk mitigants that do not qualify as

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[12] *See* Bank of International Settlements, Committee on Payment and Settlement Systems, Principles for Financial Market Infrastructures (Apr. 2012), *available at* https://www.bis.org/cpmi/publ/d101.htm.

[13] 91 Fed. Reg. at 15,079.

financial collateral under the capital rule. In addition, and in contrast to derivative contracts with financial end-users, derivative contracts with commercial end-users have heightened potential to present right-way risk."[14] Those considerations remain true today.

IX. Conclusion

FIA generally supports the Proposal and commends the agencies for the substantial improvements reflected in this iteration of capital reform. The limited recommendations set forth above are intended to refine certain technical aspects of ERBA in a manner that enhances risk sensitivity and internal consistency, while further supporting central clearing and sound risk management. We respectfully encourage the agencies to incorporate these recommendations as they finalize the Proposal.

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We stand ready to engage constructively with the agencies on the matters discussed in this letter. If you have any questions, please contact Jacqueline Mesa, Chief Operating Officer and Senior Vice President of Global Policy at FIA, at 202-466-5460.

Respectfully Submitted,

Walt L. Lukken

President and Chief Executive Officer
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[14] 85 Fed. Reg. 4,362, 4,371 (Jan. 24, 2020).