

Liquidity, Capital and Crypto: The Regulatory Realignment

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Table of Contents:

- [PRA Consultation Proposes Modernising Liquidity Policy](#)
- [Federal Banking Agencies Issue Long-Awaited Basel III Endgame Reproposal](#)
- [SEC-CFTC Crypto Guidance: Five Categories and the Howey Test](#)

PRA Consultation Proposes Modernising Liquidity Policy

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By Alix Prentice
Partner | Financial Regulation

On 17 March the UK's Prudential Regulation Authority (**PRA**) published a Consultation Paper on "**Modernising the liquidity policy framework**" (**CP5/26**), which is an ambitious salvo aimed at making "targeted and proportionate" adjustments to firms' responses to liquidity shocks and enhance their operational readiness for future challenges across an increasingly wide range of scenarios.

Existing requirements for firms to maintain a Liquidity Coverage Ratio (**LCR**), essentially by holding sufficient high-quality liquid assets (**HQLA**) to satisfy payment obligations during a 30-day period of stress, were set following the liquidity shocks of the financial crisis of 2007/8. Technological developments since that time have shown that the speed at which confidence is lost and outflows gain pace now outstrips the assumptions that underpin the LCR.

What is the PRA proposing?

The PRA is not proposing firms hold more liquid assets. Rather, it is looking to strengthen Pillar 2 and banks' liquidity risk management and operational resilience in a way that is proportionate to the risk the particular institution identifies.

Proposal 1: Assess the composition of liquidity resources and monetisation risk - the PRA is proposing a clarification to the Overall Liquidity Adequacy Rule (**OLAR**) to make it clear that banks must at all times maintain a composition of liquidity resources that means there is no significant risk that liabilities cannot be met as they fall due. In addition, and importantly, firms will be required to prepare stress scenarios that deal with the first seven days of a sudden and severe liquidity outflow.

Banks will also be required to assess frictions to the monetisation process, including internal frictions such as internal governance processes, and whether accounting treatments or the effects on capital ratios would be detrimental to their ability or willingness to monetise when necessary. This will entail a shift away from considerations for firms of 'marketable asset risk', which will be replaced with the wider concept of 'monetisation risk' in the Internal Liquidity Adequacy Assessment Rule.

Proposal 2: Remove exemption for Level 1 Assets (including sovereign bonds) from the LCR Operational Requirement for monetisation testing – the proposal to no longer exempt this category of asset from the annual operational testing requirement is consistent with Basel's approach to monetisation testing.

Proposal 3: Clarify the role of central bank facilities within the prudential liquidity framework – the PRA proposes clarifying that firms may include central bank facilities that are regularly available and offered on published terms as part of the OLAR and for internal stress testing purposes, but may not include emergency central bank liquidity assistance. Banks that do include these facilities must be operationally ready to use them and meet the eligibility criteria (including prepositioning eligible collateral).

Proposal 4: Managing collateral – here the PRA proposes requiring banks to monitor and assess pre-positioned collateral with central banks as an additional liquidity resource, and to estimate the amount of additional unencumbered assets that are not prepositioned but which may be eligible as central bank collateral.

Responses are due by 17 June 2026.

Federal Banking Agencies Issue Long-Awaited Basel III Endgame Reproposal

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By Daniel Meade
Partner | Financial Regulation



By Christopher Horn
Partner | Financial Services

On March 19, 2026, the Federal Reserve Board (“FRB”), Office of the Comptroller of the Currency (“OCC”) and Federal Deposit Insurance Corporation (“FDIC”, collectively, the “Agencies”) released (i) a revised proposal for Basel III Endgame applicable to Category I and II institutions (the “[ERBA Proposal](#)”) and (ii) proposed amendments to the existing standardized approach capital rules (the “[Standardized Proposal](#)”). The FRB also proposed amendments to the calculation method for the surcharge applicable to the U.S. globally important banking organizations (the “[GSIB Surcharge Proposal](#)”), and amendments to information collections based on the three other proposals (the “[Information Collection Proposal](#)”).

The ERBA Proposal

The ERBA Proposal replaces the [July 2023 Basel endgame proposal](#) (which we discussed at the time, [here](#)) with something more aligned with the Basel agreements, and less gold-plating of the U.S. capital requirements. Like the 2023 proposal, the ERBA proposal would delete the current internal model-based advanced approach and replace it with the expanded risk-based approach (“ERBA”). The ERBA would be applicable to Category I and II institutions (generally the GSIBs and banking organizations with \$700 billion in assets or more).

The ERBA generally would not rely on internal models, and instead would be a more-or-less standardized assignment of risk weights. The ERBA Proposal also would eliminate the “dual stack” calculations that are currently required of advanced-approach banking organizations. In place of internal models for credit and operational risk, the ERBA Proposal would institute a more granular standardized system. Risk weights for real estate exposures would be more dynamic and adjust based on factors such as the loan’s loan-to-value ratio.

Corporate exposure risk weights would be tied more directly to credit quality, and retail exposures reflect repayment structure. The framework is more differentiated than current standardized rules but less tailored than internal models. The Federal Reserve staff, in its [memo](#) to the Board of Governors, also noted that the risk sensitivity of the ERBA Proposal would be “bolstered by the stress capital buffer requirement, which adds a forward looking perspective to the requirements of large firms.”

Under the ERBA Proposal, investment-grade corporate exposures can move from a 100% risk weight to 65%. Governor Waller underscored the point that capital “is not free.” The proposal reflects that view. It reduces capital where the agencies see over-calibration and keeps or increases it where they do not.

Commercial real estate tells a similar story. Lower-LTV, strong-obligor exposures can fall well below 100 percent risk weights in some cases. But non-qualifying CRE and higher-risk structures move the other way, often to 150%. The ERBA Proposal tends to reward disciplined underwriting. Securitization is even more explicit. Senior securitization exposures may benefit from a lower risk-weight floor (15% rather than 20%). But resecuritizations and non-performing loan securitizations are subject to 100% floors.

Vice Chair of Supervision Bowman described the proposal as producing “more efficient regulation.” That efficiency is selective. It applies to traditional banking activity. It does not necessarily extend to more complex activities.

The introduction of an operational risk capital requirement reinforces that duality. The op-risk provisions in the ERBA Proposal are not tied to asset class so much as business model. Firms with operationally intensive or fee-driven businesses will carry additional capital regardless of credit quality. Any benefit on the credit side must be evaluated net of this op-risk overlay.

The ERBA Proposal removes the common equity tier 1 (“CET1”) deduction regime and replaces it with a flat 250% risk weight. The agencies seem to be stepping away from a structure that constrained mortgage servicing and replacing it

with one that allows the business to operate at a cost, but not a prohibition or steeper disincentives that exist now.

Vice Chair Bowman emphasized that the framework should better support economic growth, and stop squeezing out traditional banking activities from the regulated perimeter to private credit. The Agencies also addressed a long-standing technical issue: threshold drift. Key thresholds would be indexed for inflation. This prevents regulatory tightening through nominal growth alone. It is a small change with structural implications.

The Agencies estimate that the overall capital impact will be “reasonable.” CET1 requirements for large holding companies is estimated to increase by approximately 1.2%. At the insured depository institution level, estimated requirements decline by roughly 5.1%.

When combined with the GSIB surcharge proposal, discussed below, and the October 2025 stress capital buffer revisions, CET1 requirements decline by approximately 5% for Category I and II firms.

The Standardized Proposal

The Standardized Proposal focuses on three core areas: (i) the definition of regulatory capital, (ii) the calibration of risk weights for key asset classes, and (iii) targeted technical adjustments to existing methodologies. Taken together, these changes reflect a deliberate effort to improve risk sensitivity while avoiding the operational complexity associated with the expanded risk-based approach.

The Standardized Proposal follows the ERBA's proposed treatment of MSAs by eliminating the deduction for mortgage servicing assets (MSAs) and instead applies a uniform 250% risk weight for MSAs. More consequentially, the proposal would require Category III and IV banking organizations to recognize most elements of accumulated other comprehensive income (“AOCI”) in CET1 capital, subject to a five-year transition period. This change aligns these firms with the treatment applicable to the largest banking organizations and reflects a clear policy preference for greater transparency in capital measurement. It will, however, introduce additional volatility into regulatory capital ratios, particularly for institutions with significant available-for-sale securities portfolios, and will likely prompt adjustments to interest rate risk management and balance sheet strategy.

The Standardized Proposal also recalibrates risk weights across several key exposure categories. Similar to the ERBA Proposal, the Standardized Proposal would rely more on an LTV-based framework for residential mortgage exposures, replacing the current binary approach.

Adjustments to corporate exposures and other assets are more modest in the Standardized Proposal, reducing the risk weight for corporate exposures from 100% to 95% and for other assets from 100% to 90%. These changes are calibrated based on analysis conducted in connection with the ERBA Proposal and are intended to better approximate underlying risk without introducing additional segmentation or complexity.

The Standardized Proposal also includes targeted revisions to off-balance sheet exposures and securitization. The definition of “commitment” is broadened to ensure more consistent treatment across institutions, capturing a wider range of arrangements that may result in future credit exposure. The securitization framework remains anchored in the existing standardized approach, but with refinements to exposure measurement and credit risk mitigation that align more closely with the ERBA.

Notably, the proposal bolsters the framework for significant risk transfer (SRT) transactions. While synthetic securitizations and credit derivatives are addressed within the existing structure, the proposal introduces a new form of credit risk mitigant, the “eligible prepaid credit protection arrangement,” that is intended to facilitate the direct issuance of credit linked notes by banks.

The practical consequence is a shift in how capital is allocated and managed. Institutions with lower-risk residential mortgage portfolios and more traditional lending profiles may benefit from reduced capital requirements. In contrast, institutions with significant securities portfolios or reliance on AOCI opt-outs will face increased volatility and new strategic considerations. For many firms, the inclusion of AOCI will be the dominant driver of change, requiring a reassessment of balance sheet composition, hedging strategies, and capital planning.

GSIB Surcharge Proposal

The GSIB Surcharge Proposal addresses what some have called a structural flaw in the existing framework—one that has quietly but persistently distorted capital outcomes over the past several years.

At the center of the proposal is Method 2 of the GSIB surcharge framework. As practitioners are well aware, Method 2

was designed to provide a more predictable and firm-specific measure of systemic importance by relying on fixed coefficients rather than global aggregates. In practice, however, that design choice has created a different problem: the coefficients have remained static while the economy—and GSIB balance sheets—have not.

Since 2019, Method 2 scores have increased materially across U.S. GSIBs, even as Method 1 scores have remained broadly stable. The Federal Reserve explicitly acknowledges that this divergence is not primarily driven by increased systemic risk, but by nominal growth—balance sheet expansion, inflation, and broader macroeconomic changes. In other words, Method 2 has been capturing scale, not relative systemic importance.

The GSIB Surcharge Proposal responds with a two-part solution. First, it applies a one-time downward adjustment to Method 2 coefficients of approximately 20 percent, effectively resetting the framework to account for post-2019 growth. Second, it introduces an ongoing indexing mechanism tied to nominal GDP growth, calculated as a three-year moving average. This ensures that, going forward, Method 2 scores should remain stable if a firm grows in line with the broader economy.

The GSIB Surcharge Proposal also would make a significant change to the treatment of short-term wholesale funding (“STWF”). Under the current framework, the STWF indicator is expressed as a ratio to risk-weighted assets. This has produced counterintuitive results: firms with higher risk-weighted assets can appear less risky, even if their absolute reliance on short-term funding is unchanged.

The Federal Reserve proposes to eliminate this distortion by removing the risk-weighted assets denominator and replacing the ratio with an absolute measure of weighted STWF. The indicator would then be scaled by a coefficient calibrated to represent approximately 20% of Method 2 scores, which is consistent with the intended weighting of systemic indicators.

To address the point-in-time measurement “window dressing”, the GSIB Surcharge Proposal would require that key indicators be calculated using averages of daily or monthly values over the reporting period. The Federal Reserve notes that this change should result in GSIB scores that better reflect a firm’s typical risk profile rather than its year-end snapshot.

Comments on the three proposals are due June 18, 2026.

SEC-CFTC Crypto Guidance: Five Categories and the Howey Test

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By Mercedes Kelley Tunstall
Partner | Financial Regulation

On March 23, 2026, the Securities Exchange Commission (“SEC”) and the Commodity Futures Trading Commission (“CFTC”) published [guidance in the Federal Register](#) regarding “Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets.” Perhaps frustrated by the lack of progress in a distracted Congress on moving a digital marketplace infrastructure bill forward, the two agencies that had been divvying up oversight of digital assets in previous years, came together to produce joint guidance that will help provide clarity to the marketplace on crypto use cases that fall within each of their jurisdictions.

The crucial stumbling block for the SEC on crypto assets has been how to apply the *Howey* test to them. A problem that has plagued them and the marketplace for at least ten years. This guidance addresses that point head-on, emphasizing that “the interpretation in this release does not supersede or replace the *Howey* test.” Meanwhile, the CFTC has included comments in this guidance regarding when crypto assets that are not be deemed to be securities per the SEC’s new interpretation could instead be classified as “commodities.”

The guidance identifies “five categories based on [crypto asset] characteristics, uses, and functions: (1) digital commodities; (2) digital collectibles; (3) digital tools; (4) stablecoins; and (5) digital securities.” Of these five, digital commodities, digital collectibles and digital tools are all deemed to not be securities, with the caveat that they could be involved in the offer and sale of an investment contract, which offer and sale would be subject to the SEC’s jurisdiction. The SEC provides that stablecoins may or may not be securities, based upon the uses of stablecoins, and, of course, a digital security is a security. Also, the SEC goes on to remind that “there may be crypto assets that do not fall within any of these five categories, as well as crypto assets with hybrid characteristics that may fall within more than one category.”

The accompanying [fact sheet](#) provides a summary of each the five categories:

1. Digital Commodities – NOT Securities – Crypto assets that are intrinsically linked to and derive their value from the programmatic operation of a crypto system that is “functional,” as well as supply and demand dynamics, rather than from the expectation of profits from the essential managerial efforts of others.
2. Digital Collectibles – NOT Securities – Crypto assets that are designed to be collected and/or used and may represent or convey rights to artwork, music, videos, trading cards, in-game items, or digital representations or references to internet memes, characters, current events, or trends, among other things.
3. Digital Tools – NOT Securities – Crypto assets that perform a practical function, such as a membership, ticket, credential, title instrument, or identity badge.
4. Stablecoins – GENIUS Act Stablecoins NOT Securities – Defined in the GENIUS Act as “payment stablecoin issued by a permitted payment stablecoin issuer.”
5. Digital Securities (or “tokenized securities”) – Securities – Financial instruments enumerated in the definition of “security” that is formatted as or represented by a crypto asset, where the record of ownership is maintained in whole or in part on or through one or more crypto networks.

The SEC being clear that digital collectibles and digital tools are NOT securities could give rise to another non-fungible token (NFT) craze. NFTs were at the base of much creativity and innovation in the early years of this decade, which energy was significantly chilled by previous SEC actions against NFT issuers. This guidance is so important to providing regulatory certainty to companies interested in picking up on NFTs and using them to support Web3 initiatives and beyond.

In terms of digital securities, the SEC identifies two kinds tokenized securities: “(1) securities tokenized by or on behalf of the issuers of such securities; and (2) securities tokenized by third parties unaffiliated with the issuers of such securities, which may involve the third party issuing a separate security that derives its value from or is otherwise linked to the subject security.” The SEC’s recognition of the second kind of tokenized security is likewise very important for the marketplace and will help to stabilize innovation occurring in investment markets based upon crypto assets. In discussing such innovation, the SEC emphasized that just because some tokenized securities may include non-financial benefits (e.g., access to special events or content, or unique discounts or membership benefits) in addition to

standard financial benefits, the provision of those non-financial benefits does not cause that token to stop being a tokenized security.

When evaluating a particular crypto asset's characteristics, uses and functions under the *Howey* test, the SEC indicates that it will look closely at whitepapers issued in conjunction with the sale of tokens to determine whether the token is being offered in a manner that encourages "an investment of money in a common enterprise with representations or promises to undertake essential managerial efforts from which a purchaser would reasonably expect to derive profits." Crucially, the SEC recognizes that a token may meet the definition of being a tokenized security only for a limited period of time. Once the purchaser "no longer reasonably expects the issuer's representations or promises to engage in essential managerial efforts to remain connected to the non-security crypto asset" either because the promises have been fulfilled or because there has been a failure of the issuer to satisfy the reps and promises, then the token becomes a non-security token.

The guidance then turns into discussions of protocol staking and protocol mining, activities that are associated with crypto assets, finding that when staking or mining is being undertaken with a non-security token, or that token is "wrapped", such activities are not governed by the SEC. The SEC also concludes that simply airdropping a token is not an offer or sale of a security because it does not involve the investment of money.

As mentioned, this guidance is a good, important step forward to help stoke innovation fires and encourage companies to look to the United States marketplace as a place to engage in a wide variety of crypto asset-related activities. Congressional action that cements the positions the SEC and the CFTC have taken in the guidance will still be important, of course, especially in light of the limited effect agency guidance has in court proceedings, due to the [**Supreme Court's decision in *Loper Bright Enterprises***](#).