

Capital & Credit

As the commercial real estate industry continues to navigate an environment with elevated interest rates, significant levels of maturing debt, and shifting financial regulations, RER continues to work to support policies that preserve access to lending, long-term investment capital, and risk management tools. These efforts include helping to shape the revised *Basel III Endgame* proposal, backing the withdrawal of the SEC's proposed Safeguarding Rule, and advancing measures that encourage capital formation and credit capacity.

Reauthorizing Federal Terrorism Insurance

For more than two decades, the Terrorism Risk Insurance Act (TRIA) has enabled businesses to obtain terrorism risk coverage that the private market alone cannot reliably provide. While the risk of terrorism remains as strong as ever, this critical program is scheduled to sunset at the end of 2027. Without TRIA, terrorism risk coverage would become scarce or unaffordable, threatening economic resilience and recovery.



RER's Actions:

Continued direct advocacy through the Coalition to Insure Against Terrorism (CIAT), a broad coalition of commercial insurance consumers that RER helped to establish after 9/11.

Engaged with Congress and Treasury officials through CIAT, with a focus on ensuring the long-term stability and affordability of terrorism insurance for commercial policyholders.

Led coalition letters in September 2025, January 2026, and May 2026, urging Congress to renew the program well in advance of its sunset date.

Reinforced that TRIA has maintained market stability for more than 20 years at minimal taxpayer cost, in part because of the program's mandatory recoupment mechanism.



RER's Impact:

In January 2026, the House Financial Services Committee (HFSC) voted 51-2 to advance the *TRIA Program Reauthorization Act of 2026* (H.R. 7128), which would extend the program for seven years, through Dec. 31, 2034.

In March 2026, the HFSC formally reported the bill to the full House.

In April 2026, Sens. Dave McCormick (R-PA), Tina Smith (D-MN), Thom Tillis (R-NC), and Ruben Gallego (D-AZ) introduced the *Terrorism Risk Insurance Program Reauthorization Act of 2026*, a bipartisan, clean seven-year extension of TRIA that further strengthened momentum for early reauthorization.

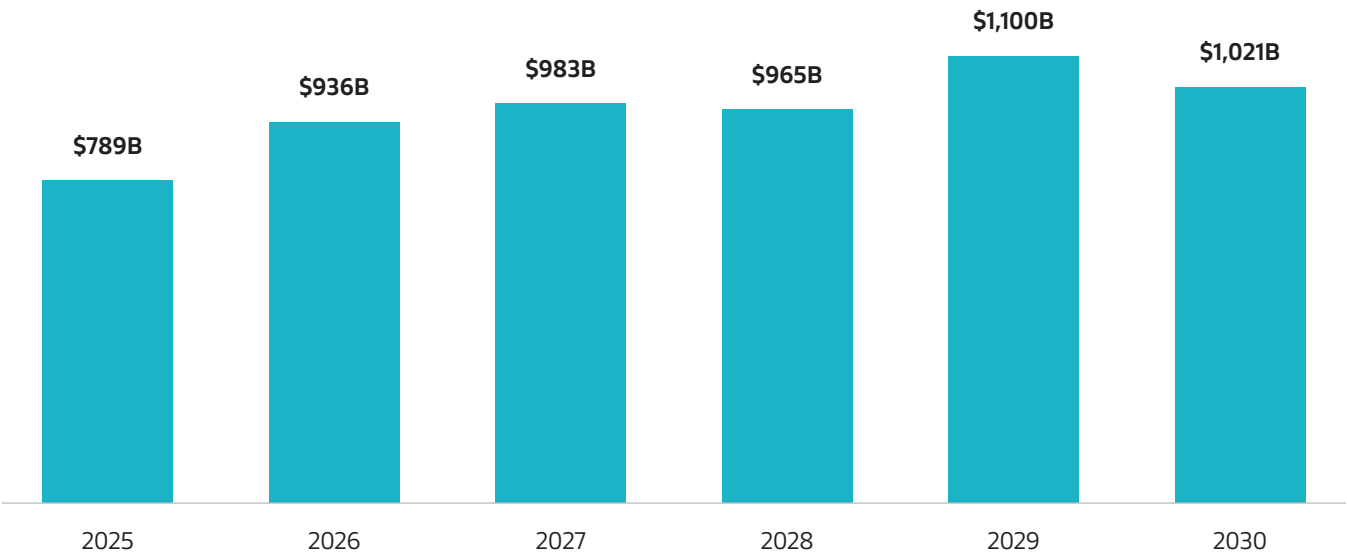


Senate Democratic Leader Charles Schumer (D-NY) outlined the policy and political challenges shaping the housing and economic debate at RER's Annual Meeting.

Addressing Pro-Cyclical Regulatory Policy

In 2023, the Fed released a sweeping set of proposed rules, known as the *Basel III Endgame*, that would have increased capital requirements for the nation’s largest banks by as much as 20 percent. The changes would have incurred significant economic costs without clear benefits to the economy, including constraining available credit capacity for commercial real estate transactions and undermining liquidity and economic growth at a time when the industry is facing a wave of maturing loans.

Amount of U.S. CRE mortgages estimated to mature, based on amounts at origination¹¹



Source: S&P Global



RER’s Actions:

Consistently opposed the original *Basel III* proposal through multiple comment letters, testimony to Congress, and coordinated advocacy in partnership with a diverse coalition of national trade associations.

Joined a coalition letter in December 2025 that urged prudential regulators to examine and modernize large bank capital requirements to ensure that they continue supporting consumers, businesses, and the broader U.S. economy.

Emphasized that inappropriately calibrated capital rules could have negative impacts on economic activity and pose risks to American competitiveness.

Participated in a coalition letter in June 2026 in response to the notice of proposed rulemaking from the bank regulatory agencies on the revised, re-proposed set of *Basel III Endgame* bank capital rules.



RER's Impact:

In March 2026, the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) formally rescinded the 2023 *Basel III Endgame* proposal and issued a significantly revamped re-proposal.

Rather than imposing the 16 to 19 percent capital increase contemplated by the original proposal, the revised framework is estimated to actually reduce overall system-wide capital requirements by approx. \$87.7 billion.

Under the newly proposed rules, Common Equity Tier 1 requirements would decline by about 4.8 percent for Global Systemically Important Banks (G-SIBs), while midsize banks would be allowed to decrease their capital buffers by about 5.2 percent, and smaller banks by about 7.8 percent.

The package would also replace the dual-track capital framework for the largest banks with a single approach, revise the G-SIB surcharge, and lower risk weights for mortgages and mortgage servicing assets.

The modernized rules aim to lower the high capital charges originally proposed for CRE loans, making it more attractive for banks to hold CRE assets on their balance sheets and aiding owners who need to refinance maturing debt.

"Safeguarding Rule" Withdrawal

In 2023, the SEC proposed changes that would have required registered investment advisers to place all client assets, including physical real estate, with "qualified custodians." This "Safeguarding Rule" would have also mandated a written agreement between custodians and advisers, expanded "surprise examination" requirements, and enhanced recordkeeping rules. The proposal, which was largely designed for digital assets, would have imposed ambiguous and unworkable requirements on real estate. Additionally, the SEC's release contained an inaccuracy regarding the way deeds evidencing ownership of real estate are recorded.



RER's Actions:

Submitted a letter to the SEC in October 2023, requesting an exception for real estate.

Worked with industry partners and coalition allies to highlight the compliance and cost burdens associated with the proposal.

Met with SEC staff and pointed out that physical real estate cannot be held by a qualified custodian in the same manner as securities or digital assets, and explained that the proposal misconstrued how real estate ownership is documented and transferred under existing law.

Emphasized that existing state and local recording systems, together with the current SEC custody framework, already provide workable protections against misappropriation.



RER's Impact:

In June 2025, after extensive industry pushback, the SEC withdrew the proposed Safeguarding Rule.

The withdrawal avoided impossible custody requirements for physical property and preserved the existing 2015 Custody Rule framework for real estate.

It also prevented significant new compliance costs, transaction delays, and operational burdens, particularly for smaller advisers and real estate investment firms.

Democratizing Access to Alternative Assets for 401(k) Investors

In August 2025, the Trump administration issued an Executive Order aiming to allow ordinary workers to invest in alternative assets such as private equity and real estate through their 401(k) plans—a fundamental shift in federal policy regarding access to asset classes previously reserved for institutional investors.

In March 2026, the Department of Labor (DOL) issued a subsequent rulemaking that would clarify fiduciary duties under the Employee Retirement Income Security Act (ERISA) and establish a safe harbor for selecting designated investment alternatives. The rule is intended to reduce regulatory uncertainty and litigation risk that have discouraged plan sponsors from offering broader exposure to private markets and other alternatives in 401(k) plans, even though such investments are not expressly prohibited today.



RER's Actions:

Tracked developments following the Executive Order and related interagency activity at the DOL and the SEC affecting participant-directed retirement plans.

Assessed the implications of DOL's proposed rule for CRE.

Gathered RER member input on how a new fiduciary framework could affect access to real estate and other alternative investments within defined contribution plans.

Submitted comments supporting the DOL's proposed rule to expand access to alternative investments in 401(k) plans in June 2026.



What's Next:

The DOL is reviewing public feedback on its March 2026 proposal, with the agency signaling plans to finalize the rule by year's end.

Rep. Mike Flood (R-NE) (Chairman, House Financial Services Committee, Subcommittee on Housing and Insurance) outlined housing and insurance priorities for the year ahead, including TRIA, NFIP, and efforts to improve housing supply and affordability.



Gold and Platinum “Trump Cards” and the EB-5 Visa

In September 2025, the Trump administration announced new Gold and Platinum “Trump Cards”—a program intended to grant permanent residency in the U.S. for immigrants with high net worth. The creation of the program raised important questions about how it may interact with the long-standing EB-5 visa program, which attracts overseas investors to provide capital for U.S. economic development, including real estate projects.



RER's Actions:

Advocated for the existing EB-5 visa program to work in tandem with the administration's new Trump Card program, rather than be displaced by it.

Developed a fact sheet for RER members and policymakers, outlining key information about the Trump Card and EB-5 programs and their implications for real estate.

Urged policymakers to make permanent the EB-5 reforms that Congress enacted in 2022 and provide stability to regional centers ahead of their 2027 expiration.

Highlighted that the EB-5 program has delivered \$350 billion in economic impact and created over 1.5 million jobs, at no cost to taxpayers, since its inception.

Supported Sen. Ruben Gallego (D-AZ)'s *Building Housing for the American Dream Act*, which would redirect foreign capital from the EB-5 program into affordable housing construction.



RER's Impact:

Information that the administration has issued to date indicates that Trump Cards do not replace EB-5 visas, nor do they add to or subtract from the number of EB-5 visas available in a given year.

Still, Section 3(f) of the related Executive Order states that policymakers shall “consider... expanding the Gold Card program” to EB-5 visa applicants.

No formal legislative action has yet been taken, and RER remains engaged as policymakers evaluate next steps.

Rep. Andy Barr (R-KY) (Chairman, House Financial Services Subcommittee on Financial Institutions; Member, Committee on Foreign Affairs) discussed the policy issues shaping credit capacity and capital formation for real estate at RER's Annual Meeting.



Federal Trade Commission and Department of Justice Inquiry on HSR Form

On March 25, the Federal Trade Commission (FTC) and the Department of Justice's Antitrust Division (DOJ) launched a joint public inquiry regarding the effectiveness of the Hart-Scott-Rodino Antitrust Improvements Act's (HSR Act) premerger reporting requirements. The joint public inquiry requests public comment on the effectiveness of the updated version of the HSR form, which took effect in February 2025 (Updated Form).



RER's Actions:

Submitted a comment letter in May 2026 raising significant concerns that removing the Real Estate Exemptions would impose substantial costs and delays on lawful real estate transactions without any clear countervailing benefit.

Highlighted that the RFI acknowledges that the Real Estate Exemptions were adopted in 1996 "because historically these transactions were considered unlikely to violate the antitrust laws."

Emphasized that the relevant transactions remain unlikely to violate the antitrust laws, and the agencies have made no showing otherwise.



What's Next:

The FTC and DOJ are reviewing stakeholder feedback as they consider potential future changes to the HSR premerger notification process, including possible modifications to the Real Estate Exemptions.

RER will continue to engage the FTC in support of retaining the Real Estate Exemptions.

Rep. Bill Huizenga (R-MI) (Vice Chair, House Financial Services Committee; House Foreign Affairs Committee) highlighted the HFSC's work this year on TRIA reauthorization, the 21st Century ROAD to Housing Act at RER's Annual Meeting.



Looking Ahead

RER will remain focused on helping shape the next phase of action as key capital and credit issues move from advocacy to implementation—including congressional consideration of TRIA extension, regulatory follow-through on *Basel III*, and continued efforts to support stable, long-term investment in U.S. real estate. RER will also keep engaging on related insurance priorities, including long-term reauthorization of TRIA and the National Flood Insurance Program and reforms that encourage greater private-market participation in flood coverage.