

# Capital & Credit

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**The commercial real estate industry depends on reliable credit capacity and strong capital formation. Maintaining stable real estate credit and capital markets requires policies that minimize regulatory burden, encourage prudent underwriting standards, realistic market valuations, appropriate transparency, and provide necessary systemic safeguards.**

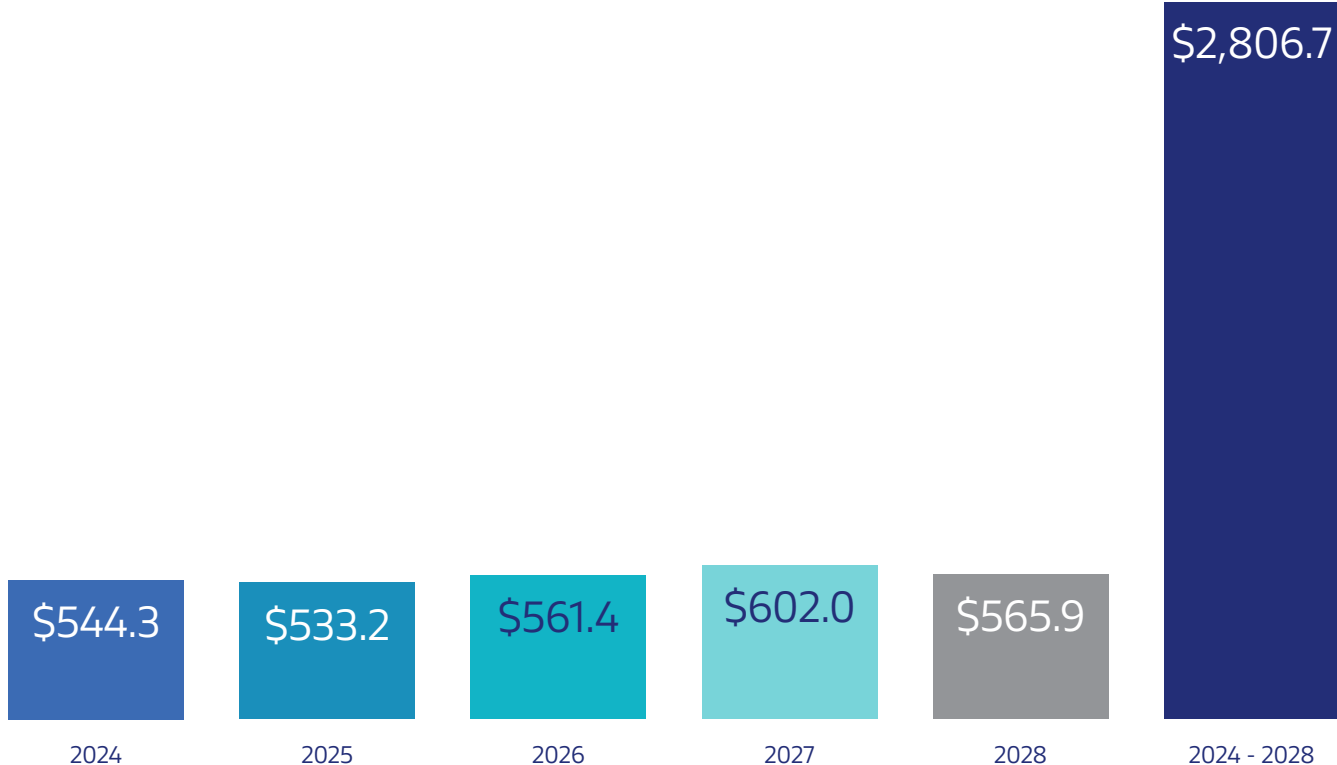
**The Roundtable supports policies that support pro-growth measures to sustain robust and liquid real estate credit and capital markets.**

**Restoring Liquidity and Encouraging Capital Formation Amidst the Wave of Maturing Debt**

There is growing concern about the potential for a perfect storm of regulations that could stall credit markets and impair capital formation—particularly for the \$4.7 trillion commercial and multifamily debt market. While well-intentioned, The Roundtable is concerned that the proposals—particularly the Basel III Endgame—could increase the cost of credit, diminish lending capacity, and undermine the essential role banks play in lending and financial intermediation for real estate. These proposed regulations come at a significant economic cost without clear benefits to the resiliency of the financial system.

There are \$2.75 trillion of commercial real estate loans maturing in the next four years. The bulk of these loans were financed when base rates were near zero.<sup>16</sup> They now need to be refinanced in an environment where rates are much higher, values are much lower, and in illiquid markets. Many of these loans will require additional equity and borrowers will need time to restructure this debt. Capital formation is vital when credit markets tighten to help restructure maturing debt and fill the equity gap.

**Commercial Mortgage Maturities by Year**



\$= Billions | Source: Trepp

To address this wave of maturing commercial real estate debt, market liquidity must be restored and borrowers' ability to raise capital in this challenging economic environment must be unimpeded. Throughout the past year, The Roundtable strongly emphasized the need for federal regulators to allow lenders and borrowers more flexibility to restructure maturing commercial real estate loans.

**In June, federal regulatory agencies responded to The Roundtable's requests and issued a joint policy statement on commercial real estate loan accommodations, calling for financial institutions to work prudently and constructively with creditworthy borrowers during times of financial stress. This significant action not only fulfills The Roundtable's requests for more supervisory flexibility but also paves the way for the responsible restructuring of maturing CRE loans. However, additional capital is still an essential element for much of this restructuring.**

In addition to calling for flexibility for borrowers, The Roundtable continues to oppose proposed changes from the Securities and Exchange Commission (SEC) to require SEC-registered investment advisers to put all their clients' assets with "qualified custodians." The proposed Safeguarding Advisory Client Rule would impose a new layer of unclear and unnecessary oversight—and inject significant confusion into well-established transaction protections, rules, and procedures governing real estate transactions. The Roundtable has submitted a [comment letter](#) to the SEC and met with senior staff from the investment management division to request that real estate be excluded from this rule.



*(L-R): RER Board Member Michelle Herrick (J.P. Morgan) and House Financial Services Committee Vice-Chairman French Hill (R-AR) discussed the wave of maturing CRE loans.*

## Halting Pro-Cyclical Policy Measures That Will Further Restrict Credit Capacity

Federal bank regulators are considering sweeping increases in capital requirements for the nation's largest banks—known as "Basel III Endgame." While well-intentioned, the proposals could significantly reduce liquidity for commercial real estate transactions, impact asset values, and stymie economic growth.

Raising capital levels at the largest U.S. banks will limit credit and put additional pressure on the fragile financial system. The Roundtable joined our national partners, major business groups, and many other organizations in pushing back against these pro-cyclical policies. In November, The Roundtable wrote to the Federal Reserve, urging regulators to re-propose the Basel III Endgame rules, and again in January to raise concerns that the proposal would decrease real estate credit availability, increase costs to commercial and multifamily real estate borrowers, and negatively impact the U.S. economy.

In January 2024, Federal Reserve officials indicated that they are considering possible adjustments to key parts of the proposal. Until this occurs, The Roundtable will continue to oppose these harmful, pro-cyclical policy measures.

## Restriction on Foreign Investment in U.S. Real Estate

Foreign investment is a major source of capital for U.S. commercial real estate, leading to job creation and economic growth for communities nationwide. However, existing and proposed federal and state measures seek to restrict foreign investment in U.S. real estate.

At the state level, the Florida legislature enacted Senate Bill 264 (SB 264) in 2023 to limit and regulate the sale and purchase of certain Florida real property by "Foreign Principals" from "Foreign Countries of Concern." In September, The Roundtable expressed concerns that the new state law could impair capital formation and hinder the important role that legitimate foreign investment plays in U.S. real estate, the broader economy, and job growth. Fortunately, in response, the Florida Department of Commerce proposed a positive clarification to the bill.

It is important to repeal state-level restrictions on foreign investors in U.S.-managed real estate funds, which non-U.S. investors have no control or access to in a U.S.-controlled fund.

So far, 20 states have enacted restrictions on foreign investors in real estate and agricultural land, and eight other states are considering similar measures. While The Roundtable does not actively engage with state legislation, we will continue working with our partners to help policymakers understand foreign investment’s critical role in U.S. real estate, and by extension, our communities.

### **Commercial Insurance Coverage (Natural Catastrophes)**

The proliferation of threats from natural catastrophes has raised concerns about commercial insurance coverage for commercial real estate. As economic losses caused by disasters increase, changing exposures around the world must be addressed to effectively manage natural catastrophe risk. These concerns have highlighted the lack of—and need for—insurance capacity and various lines of commercial insurance. Expanding coverage gaps and increased costs present challenges for businesses across many industries, including real estate. A lack of adequate coverage will lead to economic uncertainty, harm stakeholders, and undermine the growth of communities.

**NFIP** The budget debate in Congress has raised concerns about the future of the National Flood Insurance Program (NFIP), which is subject to temporary funding extensions and now must be reauthorized by September 30, 2024. It is important to find solutions—either market-based or in partnership with the federal government—that will provide the economy with the coverage it needs to address catastrophic events. The Roundtable, along with its industry partners, continues to work constructively with policymakers and stakeholders to enact a long-term reauthorization of an improved National Flood Insurance Program.

### **Beneficial Ownership & Corporate Transparency Act**



As of January 1, 2024, the *Corporate Transparency Act (CTA)* requires many U.S. businesses to disclose information on their “beneficial owners” under regulations issued by the Treasury Department’s Financial Crimes Enforcement Network (FinCEN). A beneficial owner refers to an individual who owns at least 25% of a company or enough to exert significant control over it. The CTA aims to prevent and combat money laundering, terrorist financing, corruption, tax fraud, and other illicit activity.

Due to the far-reaching scope of the CTA, The Roundtable is concerned about the regulatory burden and cost it imposes on many commercial and residential real estate investment businesses.

On March 1, 2024, a federal judge ruled the CTA unconstitutional, marking a milestone in the 16-month ongoing legal battle led by a coalition of business groups, including The Roundtable.

The Roundtable has strongly supported the organization’s legal challenge. While court battles continue to unfold, The Roundtable has also urged Senate Banking Committee leaders to support a one-year filing delay for the burdensome new requirements.

### **SAFE Banking Act and CRBs**

Legal cannabis-related businesses (CRBs) face challenges obtaining bank accounts, and commercial property owners face legal challenges when taking on CRB tenants without safe harbor protections. Federal and state law differences on cannabis policy leave banks and real estate providers trapped between their mission to serve lawful businesses in local communities—and the threat of federal enforcement action. Yet, in states where prescription and recreational marijuana use is legal, there is increasing demand for commercial space from legal CRBs.

The Roundtable supports the passage of *The Secure and Fair Enforcement Regulation (SAFER) Banking Act*, which would prohibit a federal banking regulator from penalizing a depository institution for providing banking services to a legal CRB, permitting them to utilize banking services. SAFER would also provide commercial property owners a safe harbor when leasing space to a CRB, as their mortgages could not be subject to corrective action by a bank.

Real estate owners, lessors, brokers, and financiers need certainty when transacting with these businesses.



*Tom Barkin (President & CEO, Federal Reserve Bank of Richmond) addresses members at the 2023 Fall Roundtable Meeting.*