Maryland Bankers Association

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March 9, 2006

Jennifer L. Johnson
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Attention: Docket No. OP-1248

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Attention: Docket No. 2006-01

Office of the Comptroller of the Currency
250 E Street, S.W.
Public Information Room, Mail Stop 1-5
Washington, D.C. 20219
Attention: Docket No. 06-01

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices *Federal Register, Vol. 71, No. 9, January 13, 2006*

Dear Sir or Madam:

The Maryland Bankers Association ("MBA") is pleased to provide this comment letter to the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; the Office of the Comptroller of the Currency; and the Office of Thrift Supervision (collectively, the "Agencies") in response to their proposed guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices (the "Proposed Guidance").

The MBA's membership includes community, regional and interstate financial institutions and holding companies, as well as savings association, trust companies and savings banks located or doing business in the State of Maryland.

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Comments:

1. The Proposed Guidance appears to use a "one size fits all" approach to the perceived problem related to concentrations in commercial real estate ("CRE"), and fails to recognize that an institution, depending on its market place and other factors unique to the institution, may be adequately diversifying its risks through different categories of CRE loans. Furthermore, the Proposed Guidance fails to take into account multiple subjective and judgmental factors such as the nuanced mix of DSC, LTV, guarantors, appraisals, property type, secondary markets, etc. which constitute sound commercial underwriting principles. Additionally, there is the role that risk ratings and loan loss allowance formulas play as well.

For example, The Proposed Guidance has aggregated and lumped together, for purposes of determining the proposed thresholds, all loans for "construction, land development and other land...." This approach fails to recognize that, depending upon local market conditions and demand characteristics, loans for residential and different business uses (i.e., office building, retail, and hotel) may very well provide adequate diversification within various submarkets so as to alleviate any CRE concern.

2. Further, and as a related matter, the Proposed Guidance does not distinguish between speculative 1-4 family construction loans from pre-sold homebuilder construction loans and construction/permanent loans to home buyers. Loans in this latter category carry significantly less risk than loans in the former category. And even speculative CRE loans with an adequate loan-to-value ratio should not be accorded concentration treatment. Therefore, we believe the Agencies should revise the Proposed Guidance to remove from the definition of CRE both (i) pre-sold residential construction and construction/permanent financing, and (ii) any real estate secured loan that has an LTV of less than a specified percentage. We note that with respect to item (i) this change to the Proposed Guidance would be justified by the same rationale that the Agencies used to exclude from the definition of CRE loans secured by owner-occupied properties.

3. We note that the proposed thresholds appear to be very mechanistic and arbitrary. Therefore, we would urge the Agencies to augment the thresholds with a more flexible alternative that would be reflective of an institution's specific risk profile. This would enable institutions to adopt alternative criteria for determining the existence of a CRE concentration, which would be subject to regulatory oversight under the existing examination process.

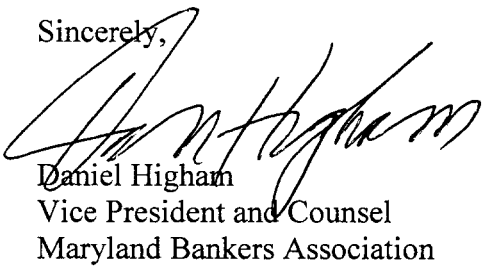
4. Finally, the Guidance should be revised to clarify that if an institution exceeds a concentration threshold, it should not automatically require a capital increase. Any increase should be in the context of the circumstances of the particular institution and its risk profile, which would encompass internal controls, the composition nature of the overall loan portfolio, management expertise, historical performance of the loan portfolio and local market conditions.

Conclusion:

Secured real estate lending has been the primary growth engine for both Maryland community banks and the communities they serve. We urge the Agencies to carefully consider whether the Proposed Guidance could result in an arbitrary examination process, which could have the unintended consequence of discouraging CRE lending. Any diminishment in the availability of CRE loans could very well exacerbate any downturn in the economy, something that could create systemic problems for banks far beyond any risk inherent in CRE lending.

Thank you for the opportunity to express the views of the Maryland banking community with respect to the Proposed Guidance.

Sincerely,



Daniel Higham
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Maryland Bankers Association