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October 2, 2022

Mr. James P. Sheesley
Assistant Executive Secretary
Attentions: Comments-RIN 3064-ZA33
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Regarding: Proposed Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts – RIN 3064-ZA33

Dear Acting Chairman Gruenberg:

The Community Bankers Association of Illinois ("CBAI"), which proudly represents nearly 300 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding the Federal Deposit Insurance Corporation's ("FDIC") proposed policy statement with a request for comments regarding commercial real estate loan accommodations and workouts ("Proposed Policy Statement" or "Proposal"). CBAI acknowledges that the FDIC is proposing to update and expand the 2009 statement by incorporating recent policy guidance on loan accommodations and accounting developments for estimating loan losses, and that, if finalized, the Proposed Statement would supersede the 2009 statement for all supervised financial institutions.

The feedback CBAI has received from its members about this Proposed Policy Statement is that thankfully they are not currently experiencing many problems with borrowers who are having financial difficulties. This is undoubtedly the result of thoughtful and traditional loan underwriting and servicing which is one of the hallmarks of community banking. However, those same bankers lived through existential challenges during the previous financial crisis and resulting recession, and they clearly understand that conditions can change quickly regardless of whether community banks cause the underlying problems and crisis or not. Accordingly, updating reasonable interagency guidance on commercial real estate loan accommodations and workouts is appropriate and beneficial.

In this Proposal, the resulting interagency guidance, and its implementation, regulators must be cognizant of the realities confronting the financial institutions they examine in working with borrowers who are experiencing financial stress, and its impact on the process of arriving at accommodations and workouts that will not result in the bank being criticized for engaging in these efforts. The Proposal highlights the need for a "comprehensive review" of the borrower/guarantor/sponsor's financial condition. While supporting financial information is undoubtedly important, borrowers in difficult financial positions are often not able to produce sufficient recent historic, current, and projected financial information to satisfy rigorous requirements for a "comprehensive review."

CBAI urges the FDIC to instruct its examiners to be reasonable in these situations, and not let *perfect be the enemy of good*. They must work with community banks as they struggle to work with their troubled borrowers and realize that reasonableness is much preferred to penalizing the banks and their borrowers for not being able to provide sufficient and timely financial information to suit an examiner's unreasonable expectations.

Achieving reasonable and desired outcomes will also require a certain degree of bank examiner discretion and support for this discretion by regulatory management above the examiner and the Examiner in Charge ("EIC"). Community banks saw ample evidence of a lack of reasonable discretion during the last financial crisis. This tragically helped lead to the failure of over 500 community banks on the one hand, while on the other, too-big-to-fail banks were allowed to survive.

Hand in hand with allowing a reasonable degree of examiner discretion is the need for a reasonable appeal process in situations where the banker and the examiner are not in agreement and the disagreement is sufficient to have a material impact on the bank's examination ratings. Unfortunately, the FDIC recently replaced the Office of Supervisory Appeals ("Office") with the preexisting Supervisory Appeals Review Committee ("SARC"). CBAI stated in its June 17, 2022, comment letter to the FDIC, "[We are] profoundly disappointed that within months of standing up the new Office and appeals process the FDIC Board has decided, without input from stakeholders, to reverse the guidelines and essentially revert to a process that lacks transparency and independence." Among the issues CBAI brought forward in its letter was the apparent lack of appreciation by the FDIC for the fear of regulatory retribution after an appeal – which community bankers consider among their greatest concerns and that SARC decisions are not eligible for consideration by the Ombudsman. CBAI concluded by stating that the reversal of the improved guidelines will now "deter community banks whose limited resources make the long and difficult journey of a supervisory appeal of an MSD more daunting, expensive, and risky, with little or no hope of success."

Regarding answers to the questions in the Proposal, CBAI urges to FDIC to strive for reasonableness in the Policy Statement, specificity in the related Appendices, and also incorporate necessary, reasonable, and meaningful discretion for examiners to enable them to constructively work with banks and their troubled borrowers in making accommodations and loan workouts that will benefit both the borrower, community bank, financial system. In addition, CBAI urges the FDIC to also allow for an accessible, reasonable, and successful appeals process in the event of significant disagreements between bankers and examiners which, unfortunately, does not now exist with the reinstatement of the SARC.

Thank you for considering our positions on this important matter. If you have any questions or require any additional information, please contact me at davids@cbai.com or (847) 909-8341.

Sincerely,

[redacted]

David G. Schroeder
Senior Vice President
Federal Governmental Relations