September 25, 2017

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218, Mail Stop 9W-11
Washington, DC 20219

Ms. Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments / Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to the Advanced Approaches Capital Rules

Dear Ladies and Gentlemen:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to provide comment on the proposed rulemaking to extend the current regulatory capital

[1] The Independent Community Bankers of America®, the nation's voice for more than 5,700 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. With 52,000 locations nationwide, community banks employ 765,000 Americans, hold $4.9 trillion in assets, $3.9 trillion in deposits, and $3.3 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA's website at www.icba.org.

treatment related to certain capital deductions and risk weights for mortgage servicing assets, certain investments in other financial institutions, and certain deferred tax assets. ICBA wholeheartedly commends the prudential banking regulators for their efforts to mitigate the damaging impact of the Basel III capital framework on community banks through the proposed "pause" of the full implementation of these regulatory capital deductions, as well as the expectation that the agencies will soon propose the simplification of the capital deductions for these items. The job-killing provisions of Basel III, including the restrictions placed on quality core banking assets like mortgage servicing rights, were never intended to apply to banking organizations like community banks in the United States. As community-based financial institutions, community banks are true job creators in urban, suburban, and rural locales and continue to act as a pillar of strength for those consumers and small businesses that make up the diverse fabric of our great nation.

Therefore, ICBA supports the proposed rulemaking to immediately pause the Basel III transition rules that apply to banks with total consolidated assets of under $250 billion with regard to the treatment of mortgage servicing assets, certain deferred tax assets, investments in other unconsolidated financial institutions, and minority interests. ICBA requests that the prudential banking regulators meet their objective of simplifying certain aspects of Basel III for community banks in the forthcoming simplification proposal by exempting all financial institutions with total consolidated assets of $50 billion or less from all provisions of Basel III. These institutions should be permitted to revert to the regulatory capital framework of Basel I.

The Proposed Rulemaking

The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation are proposing to amend the transition requirements that were designed to phase in the deduction of minority interests, investments in the capital of unconsolidated financial institutions, mortgage servicing assets, and deferred tax assets related to temporary differences through January 1, 2018 for banks with total consolidated assets of less than $250 billion not subject to the advanced approaches requirements of Basel III. The agencies are also proposing to amend the risk weights for these assets that were set to increase on January 1, 2018 for the same banks. Under the proposal, starting on January 1, 2018, impacted banks would deduct from regulatory capital eighty percent of the mortgage servicing assets, deferred tax assets related to temporary differences, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, and significant investments in the capital of financial institutions that are not in the form of common stock that exceed either the ten percent common equity tier 1 threshold or the aggregate

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fifteen percent common equity tier 1 threshold, as opposed to the one hundred percent deduction currently set to take place on January 1, 2018. Additionally, as proposed the impacted banks would apply a one hundred percent risk weight to the items that are not deducted from regulatory capital as opposed to the two hundred fifty percent risk weight that is currently set to take effect on January 1, 2018. Finally, impacted banks would include in regulatory capital twenty percent of any common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the minority interest limitations in regulatory capital as opposed to a full deduction.

Within this proposal the agencies also state their intent to propose a rulemaking at a later date to simplify certain aspects of the regulatory capital rules in order to meaningfully reduce the regulatory burden on community banks.

ICBA's Comments

ICBA supports the proposed rulemaking as the first step in much needed regulatory relief for community banks. Since the final rule signaling the implementation of Basel III was made official, community banks have struggled to adapt to a capital standard that penalizes quality assets like mortgage servicing rights and removes capital markets liquidity for trust preferred securities (TruPS) held as investments. The rule made it difficult for community banks to maintain mortgage servicing, thus depriving their customers of quality service as servicing rights were sold to less regulated entities that view the mortgage servicing business only through the potential for scale and not as an opportunity to provide quality customer service to a valued customer with a meaningful relationship. Community banks were always in the best position to provide the highest level of customer service to their customers because they lend locally. When mortgage borrowers experience financial stress, it is the community bank that understands the customer's hardship and is willing to work with the borrower and take the steps needed to place the customer back on the path to meeting their obligations under the loan.

Additionally, the implementation of extreme regulatory caps on mortgage servicing activities have prevented community banks from utilizing a high-quality banking asset that acts as a natural hedge against the balance sheet and income statement volatility stemming from changes in interest rates. Prudential regulators in the United States have imposed these regulations with no supporting evidence that mortgage servicing assets pose a threat to the safety and soundness of community banks or the domestic banking system.

ICBA notes that prudential bank regulators provided grandfathering provisions for existing TruPS issued by community banks to be counted as tier 1 capital but they did not exclude existing purchased TruPS from the threshold deductibility provisions of Basel III. Regulators based their grandfathering provisions for issued TruPS on the belief that

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Congress intended to allow regulatory relief for TruPS investors, but did not reflect this reasoning in the final regulatory capital rules for community banks as investors in TruPS. The proposed rulemaking helps mitigate some of the negative market impact for TruPS in the capital markets. However, ICBA believes that the agencies must do more to reverse the damage to the liquidity for existing TruPS that trade in the capital markets.

ICBA believes that regulators should further extend the relief provided through this transitional rulemaking by totally exempting banks under $50 billion in total consolidated assets from the provisions of Basel III. ICBA has long held that Basel III should never have been considered for community banks. Prudential regulators in the United States should have followed the scope of the work of the Basel Committee by limiting the provisions of Basel III to the largest, internationally-active, interconnected banks that pose the greatest threat to the deposit insurance fund and the financial system in the event of an economic downturn. Community banks are conservative lenders that did not engage in the excessive risk-taking activities of the larger banks. They maintain the same plain vanilla business model that they have perfected over generations.

If regulators are unwilling to provide a total exemption for community banks to relieve the pain of managing regulatory capital under Basel III, ICBA recommends that steps be taken to return major provisions of the capital standards to Basel I as quickly and prudently as possible. For example, regulators should significantly raise the cap on allowable mortgage servicing assets that can be held by banks under $50 billion in total consolidated assets before regulatory capital deductions are required. Raising the cap from ten percent of common equity tier 1 capital to fifty percent of common equity tier 1 capital for mortgage servicing assets will go a long way in restoring the use of a quality asset that helps local communities and provides stability in reported bank earnings.

ICBA appreciates the opportunity to comment on the proposed rulemaking. If you have any questions or would like additional information, please do not hesitate to contact James Kendrick at james.kendrick@icba.org.

Sincerely,

/s/

James Kendrick
First Vice President, Accounting and Capital Policy

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