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To: Comments

Subject: RIN 3064-AE59

The agencies are seeking comment on different aspects of the proposed simplification of the Capital Rules. In Question 1 and 2 you are seeking comments regarding operational concerns resulting from the imposition of the new rules and also seeking comments on whether the new proposed rules would simplify and enhance consistency in the treatment for credit facilities financing real estate acquisition, development, or construction.

We are unsure of the impact regarding these two questions, but have one fundamental concern. Our specific concern is the agencies' complete elimination of any contributed capital exemption and, related to that, the agencies complete elimination from exemption of ADC loans to fund Cash Flow Positive projects (based on market rents) solely because of the developer's intent to market the property as condos. The amount of contributed capital is a very important element of risk and can in fact lower the lender's risk of making a "spec" condo project to the point where the risk is more akin to that of financing an apartment building. Therefore, the agencies new rules should not omit an exemption related to contributed capital and should not disallow exemption for Cash Flow Positive projects just because of the developer's intent to market the units as condos.

Proposed Exemptions:

The proposed exemptions provide for risk weighting certain HVADC loans at 100% instead of 130% but specifically exclude from exemption certain highly capitalized ADC loans. ADC loans which are highly capitalized should not have the same risk weighting as ADC loans which are not highly capitalized. The existing HVCRE rules at least inherently recognize the differentiated risk levels of ADC loans based upon the amount of capital injected into an ADC project.

The proposed rules exempt interest only loans where the bank has identified a source of repayment that is sufficient to service an amortizing payment. This is an appropriate exemption. However, the proposed rules do not allow this same exemption when the collateral property being developed is *intended* to be sold as condos.....ie even when there is a sufficient amount of capital injected into the project so that the new property being developed, if rented, would be able to service an amortizing permanent loan based on current market rents for that property (based upon an appraisal of the rental value of the subject units). *Intent* should not be the trigger for elimination of the exemption for Cash Flow Positive new construction properties.

Experience and ADC loan Loss History

Our bank has been making ADC loans for many years and we have been very disciplined about requiring condo "spec" projects to be highly capitalized by our borrowers. We will not make an ADC loan to fund a condo project (or a rental project for that matter) unless the borrower injects the high amount of capital necessary for the condo project to work as a positively cash flowing rental property. This practice has resulted in very low losses in ADC type loans. It is not appropriate for the risk rating on these highly capitalized ADC loans to be on a par with ADC loans made to fund projects with significantly less capital being contributed.

Centuries of History

One of the oldest truisms in lending is to make sure borrower's have enough "skin in the game" and these proposed rules and exemptions completely ignore that important issue.

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