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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 202219
Docket ID OCC-2017-0018
RIN 1557-AE10

Ms. Ann E. Misback, Secretary
Board of Governors
Federal Reserve System
20th Street & Constitution Ave. NW
Washington, DC 20551
Docket No. R-1576
RIN 7100 AE-74

Robert E. Feldman, Executive Secretary
Attn: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
RIN 3064-AE66

RE: Simplifications to the Capital Rule Pursuant to EGRPRA

To Whom It May Concern:

The Commercial Real Estate Finance Council (CREFC) appreciates this opportunity to comment on the Agencies' proposal to simplify certain elements of the capital rule pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (hereinafter the "proposal").[1] Of particular interest and import to CREFC's members is the proposal related to High Volatility Commercial Real Estate (HVCRE) and creation of a new High Volatility Acquisition Development Construction (HVADC) risk-weight exposure category.

> ***For the reasons stated herein, CREFC urges the regulators to withdraw the HVADC proposal and instead, focus on improving the current HVCRE structure.***

By way of background, CREFC is the trade association for lenders, investors and servicers engaged in the $3.9 trillion commercial real estate finance industry. More than 300 companies

[1] Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; and the Federal Deposit Insurance Corporation, Notice of Proposed Rulemaking, Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996, 82 Fed. Reg. 49984 (Oct. 27, 2017).

and 9,000 individuals are members of CREFC. Member firms include balance-sheet lenders (banks, insurance companies, publicly-traded commercial mortgage REITs, and non-bank private lending platforms) and securitized lenders, loan and bond investors, private equity firms, servicers and rating agencies, among others. Most notably for the topic of HVCRE and the contents of this letter, our members include both Standardized Approach (SA) and Advanced Approaches (AA) banks, as well as non-bank lenders.

In general, CREFC promotes capital formation, encouraging commercial real estate finance market efficiency, transparency and liquidity. CREFC also acts as a legislative and regulatory advocate for the industry, plays a vital role in setting market standards and provides education for market participants in this key sector of the global economy.

EXECUTIVE SUMMARY

First and foremost, CREFC members urge regulators to refrain from creating a new, additional ADC exposure category distinct from the current HVCRE framework. While we greatly appreciate the regulators' ultimate goals of simplifying compliance requirements and reducing regulatory burdens, our membership – which again, includes SA and AA banks as well as non-bank lenders – believes that the HVADC proposal would not have the desired effect. Instead, our membership believes the proposal would increase complexity and costs for banks of all sizes by creating additional layers of compliance and administration. Rather, we propose that the agencies address ambiguities and operational challenges in the existing HVCRE regime because CREFC believes that such revisions would help reduce variation in interpretations of the current requirements and promote consistency in implementation and enforcement for all institutions subject to the capital rule.

Below, we provide specific recommendations for an improved HVCRE framework. The recommendations offer much-needed clarity and simplification, while also advancing the ultimate purpose of the risk-weight system – to align risk-taking with adequate risk capital. Additionally, we believe the recommendations would promote prudent lending practices. To the extent regulators do move forward with establishing a new exposure category, HVADC or otherwise, the recommendations below would apply to any such regime as well as to the current HVCRE framework.

Broadly, our recommendations include:

(1) Crafting a well-tailored definition of covered credit facilities that captures only those loans that, from a reasonable policy perspective, should appropriately be subject to a capital surcharge because of their relation to more speculative ADC lending;

(2) Retention of the borrower-contributed capital exemption with important modifications and clarifications;

(3) Revision of the community development exemption to avoid any unintended negative impact on lending to affordable housing projects and small businesses; and

(4) Common-sense grandfathering and transition rules for any new requirements (and/or any new exposure category), which provide sufficient time to adjust systems and business expectations to meet those new requirements.

A more detailed discussion of each of these recommendations follows.

I. Regulators should not create a new ADC exposure category, but instead, should address the problems plaguing the current HVCRE framework.

As the regulators' proposal acknowledges, implementation of current HVCRE requirements has proven complicated and costly for regulated institutions. Regulators' proposed solution to this problem, i.e., creation of a new HVADC exposure category, however, does not address the root issue – confusion and operational challenges related to HVCRE. Instead, the proposal, if finalized as proposed, would add a layer of complexity in the form of a new, parallel HVADC framework – with its own inevitable ambiguities and implementation hurdles – which will only exacerbate the current challenges for all banks.

The HVADC proposal's division of institutions between SA and AA banks is problematic and unnecessary. Indeed, CREFC's SA and AA bank members agree that developing two separate exposure categories based on this bifurcation of banks does not simplify the overall capital regime.

First, for years, *all* banks covered by the capital rule have invested substantial amounts of resources in complying with the HVCRE regime. Significant business planning and expectations and, naturally, loan structuring and pricing, are currently built around minimizing HVCRE exposure. Switching to – or in the case of AA banks, adding (explained in more detail below) – a new exposure category at this time is counterproductive and costly for both lenders and borrowers. Bifurcating documentation requirements, pricing and other elements of ADC transactions by SA and AA banks according to different requirements could also cause marketplace disruptions that negatively impact borrowers (owners and developers) and other industry players. Overall, the HVCRE regime is now firmly engrained and far-reaching across all stakeholders.

Second, functionally, the AA banks are subject to both the SA and AA regulatory environments, because the so-called 'Collins Amendment' requires them to run analyses under both approaches to determine their capital "floor" requirements. The dual approach requires that these AA banks run two distinct analyses based on different exposure category definitions, exemptions and permanent financing de-listing criteria, i.e., using the "HVCRE" definition and exemption parameters when they run their AA calculations with internally-generated risk-weights, and

"HVADC" when they run their SA calculations with the assigned risk-weight.[2] This is antithetical to this Administration's commitment to reducing unnecessary regulatory burdens and costs. It also runs counter to the goals of the Economic Growth and Regulatory Paperwork Reduction Act, under which this rule was promulgated.

A better approach to achieve the proposal's ultimate objectives of reducing costs and burdens is to fix the most problematic and onerous elements within HVCRE. To date, HVCRE requirements and exceptions have been somewhat muddled by regulators' attempts to patch together informal explanations via FAQs and varying enforcement guidance. However, inability thus far to establish a comprehensive, cohesive HVCRE compliance structure has created opportunities for compliance arbitrage, i.e., banks and regulators interpreting and applying various provisions and requirements differently, and so prompted the introduction of legislation (H.R. 2148) to statutorily fix some of the outstanding challenges associated with HVCRE. In lieu of the current HVADC proposed rule, regulators should exercise their implementation authority and take the opportunity to address improvements to HVCRE in a permanent, concerted manner via a new rulemaking process.

Importantly, as regulators explore ways to clarify key aspects of the HVCRE regime and help regulated institutions reduce unproductive compliance burdens, the underlying purpose of risk-weight requirements, i.e., to assess capital surcharges according to risk, must remain top of mind. CREFC understands the need for prudent lending in the ADC/CRE context, as well as the need to limit and mitigate systemic exposure to riskier lending. It is unclear, however, whether or how the proposed HVADC structure, e.g., a very broad definition of covered facilities and elimination of an exemption that incentivizes borrowers to have "skin in the game," would help advance the risk-weight's underlying purposes, particularly when compared to the HVCRE model.

CREFC members agree with the central risk-based capital concept that higher risk-weights should be assigned to riskier credits. Risk weights, therefore, should be commensurate with actual risk and performance. Generally speaking, they should be substantiated and data-driven, and not set arbitrarily. These principles apply in the HVCRE context, as well as to any new ADC/CRE exposure category.[3]

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[2] Under the advanced approaches, the parameters of the "HVCRE" definition and exemptions apply, but institutions may assign their own risk-weight based on internal risk assessments. CREFC is in no way suggesting that the 150% HVCRE risk-weight should be imposed under the AA calculation. Rather, we are advocating for maintaining the status quo under which SA and AA banks use the same definitional/exemption framework and related regulatory implementation details, but the assigned risk-weight applies only under the SA capital calculation.

[3] We recognize that the 150% HVCRE risk-weight is not before us with the current proposal, but we would welcome the opportunity to discuss this issue further with the regulators in the future.

Ultimately, the HVADC proposal is fundamentally flawed and should be withdrawn. Regulators should not create a separate HVADC (or any other) exposure category. Instead, the focus should remain on fixing HVCRE to make it more workable and less onerous for all banks, while being true to the central objective of aligning risk-weights with risk. CREFC's specific recommendations are detailed below. Again, to the extent regulators do establish a second risk-weight exposure category, the recommendations below with respect to a properly tailored definition and exemptions apply to both improving HVCRE and shaping any new framework.

II. Specific recommendations for a less onerous, effective risk-weight regime.

First and foremost, any risk-weight regime should be properly calibrated to assess a capital surcharge only on riskier credit facilities, while avoiding any undue burdens or costs on prudent lending practices or system liquidity. Accordingly, the scope of any risk-weighted exposure category must be carefully and clearly defined, and any exemptions must be appropriately designed to incentivize prudent and/or socially beneficial practices, e.g., lending for affordable housing projects.

A. The definition of covered credit facilities should be limited to properly align risk-weighting with risk-taking.

To capture only those loans that should be subject to a capital surcharge, any definition of covered credit facilities should include the following elements:

(1) A requirement that the loan be "secured by" ADC real property;[4]

(2) An ADC purpose-based test, i.e., has the purpose of providing financing to acquire, develop or improve the real property securing the loan; and

(3) Inclusion of only those credit facilities for which repayment prior to loan maturity depends on future speculative rental, sale or refinancing of the real property.

As described in further detail below, these three elements are interrelated and work in tandem to ensure that only riskier ADC-related loans, e.g., real estate loans dependent upon future income

[4] Some of CREFC's non-bank members question whether a "secured by" requirement is needed in addition to the other two definitional elements suggested herein. They are not averse to a pure purpose-based test (i.e., not dependent on whether a credit facility is secured by real estate or any other assets) to avoid creating unintended loopholes in the risk-weight category. On the other hand, neither the banks nor the non-banks are suggesting that a lender not take real estate as security to avoid an HVCRE designation (which banks' prudent lending policies would not allow), or that simply securing a loan with real estate if done out of an abundance of caution and not in reliance on the real estate as the primary source of repayment should trigger an HVCRE designation. Ultimately, the three prongs of our recommended definition work together to ensure that only loans that should be subject to the capital surcharge are captured.

generated by the property for repayment, are captured within the exposure category. If a loan does not satisfy all three criteria, we contend that it does not warrant an HVCRE – or any similar risk-weight exposure category – designation.

1. *The exposure category should only cover loans secured by ADC real property to avoid including less risky, higher-performing credit facilities.*

Notably absent from the regulators' current proposal is a "secured by ADC real property" requirement in its definition of covered credit facilities. Indeed, the preamble acknowledges that under the proposal's pure purpose-based test, a facility that "primarily finances" ADC but is not secured by such real property could be considered an HVADC exposure subject to the capital surcharge. This is troubling for multiple reasons.

First, the "secured by" requirement is essential to identify commercial mortgage loans within banks' systems. It is one of the primary segmenting factors inherent in regulatory reporting requirements and examination procedures as described by the Handbook of the Office of the Comptroller. These systems and processes are central to banks' overall operations, and removing the "secured by" element would add – not alleviate – burden and complexity.

Second, in combination with the other definitional elements described below, a "secured by" requirement ensures that the exposure category only captures those loans that truly are related to riskier ADC lending. Without it, the definition/scope of the exposure category could encompass a whole category of loans that have not been underwritten in reliance on real estate as security and have long been considered low risk, high performance, and not directly tied to ADC. Such borrower-based loans, which are underwritten based on the strength of the borrower and its business, and not on the strength of any particular real property asset, represent credit facilities that should not, from a reasonable policy perspective, be subject to a ADC capital penalty simply because some of the loan proceeds may be used at times for an ADC purpose.

2. *A covered credit facility definition should only include loans with a purpose of financing acquisition, development or construction of the real property pledged as collateral.*

In addition to a "secured by" requirement, any covered credit facility definition should include a purpose-based test, *i.e.*, the purpose of providing financing to acquire, develop or improve the real property that is securing the loan and turn it into income-producing real estate. Without such a test, the definition could capture a borrowing base with properties that are able to move in and out of the investment pool, or frankly, any loan that might be used to improve real estate unrelated to the real property securing the loan. Such a purpose-based test could resemble the "primarily finances" requirement in the current proposal with some crucial modifications and clarifications.

First, a "primarily finances" purpose-based test, to be workable, should only be assessed at the time of the initial loan closing and should not require ongoing monitoring throughout the lifetime of the credit facility, e.g., an ongoing obligation on lenders to detect changes in funding distribution/borrowers' use of funds.

Second, without sufficient clarity and detail, a "primarily finances" test carries a real risk of adding dual layers of complexity and uncertainty into the regulatory framework. Consequently, regulations must clearly identify what counts toward the numerator, e.g., equipment, fixtures, etc. related only to the property being financed), and the baseline denominator, i.e., the proceeds of the loan at origination.

Alternatively, to (or in addition to) a "primarily finances" purpose-based test, a definition could include an explicit requirement that a loan have "the purpose of providing financing to acquire, develop or improve the financed real property security into income-producing real property," or similar language.

Whether structured in the form of a "primarily finances" or "has the purpose of" test, or both, CREFC supports HVCRE's current exclusion of "refinancing" from the exposure category definition. Inclusion of refinancings runs the risk of incorporating loans that are not high risk and/or adding to operational complexities, *e.g.*, determining whether refinancing an ADC loan triggers a new HVCRE exposure designation. Typically, a bank, would only consider refinancing its own loan when the loan becomes stabilized, which should not be included anyway in an exposure category with higher-risk ADC loans. Additionally, including "refinancing" as part of the exposure category's scope would complicate the calculation of the borrower-contributed capital requirement discussed at length below, e.g., refinancing projects that have been held by borrowers for an extended period of time would pose difficulties and complexities in determining the actual capital contributed over the life of the loan.

3. *Only credit facilities without identified and sufficient sources of repayment, i.e., future speculative repayment, should be included.*

Loans with identifiable, existing and sufficient repayment sources should not be subject to a risk-based capital surcharge. Thus, via definition or exemption, only loans for which repayment prior to maturity is dependent upon future speculative rental income, e.g., from third-party leases not in place, sale or refinancing of real property should be captured in any high-volatility risk-weight regime. This principle applies at origination of the loan, e.g., owner-occupied property for which the source of repayment is the borrower's business, not the real estate,[5] and as an "off-ramp" for conversion of covered loans to non-covered loans once such loans are stabilized.

[5] Relatedly, CREFC supports regulators' statements in the proposal's preamble that certain owner-occupied properties and, more generally, loans underwritten based on a separate source of

The proposal's permanent loan construct appropriately reflects this distinction, but again, could benefit from additional clarity and a few modifications. The proposed "permanent loan" definition, for instance, references amortization, although it does not appear to actually require amortization. As a practical matter, commercial real estate loans, even loans on stabilized properties, do not typically fully amortize and to imply such a requirement for a permanent loan designation is not realistic or beneficial. CREFC recommends that the regulators consider a different benchmark that better aligns the definition of "permanent" with standard industry practices, such as "a source of repayment sufficient to support the debt service and expenses of the real property prudently underwritten in accordance with the bank's permanent loan criteria."[6]

Moreover, any "permanent loan" or equivalent non-speculative repayment construct should be based on clearly defined, functional criteria related to the riskiness of a loan. In addition, any "permanent loan" determination should be made in accordance with institutions' applicable loan underwriting criteria for permanent financings. Such institutional criteria are already subject to supervisory review and oversight, including regular examiner reviews of bank policies and procedures, as well as compliance with those policies and procedures in underwriting. Institutions' criteria, policies and procedures for permanent financing are also better equipped to deal with a wide range of different types of loans, versus a prescriptive one-size-fits-all approach set by the Agencies, which may not be achievable and/or likely would add to complexity and costs.

Further, CREFC's bank members believe that any such functional criteria/off-ramp requirements for a permanent loan designation or conversion should be permitted in original loan documents, i.e., not require a payoff and new financing/second closing, to avoid unnecessary burdens and costs for borrowers and lenders when a loan stabilizes and converts.

B. Exemptions from the risk-weight framework should incentivize, or at least not penalize, prudent and socially beneficial lending practices.

In addition to the permanent loan (or similar) construct discussed above, which could be addressed as a definitional element or through an exemption, CREFC recommends that regulators:

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income from current business operations, would not fall within the scope of HVADC and thus would not be subject to a capital surcharge. This, we believe, should apply in any event.

[6] CREFC's non-bank members have also suggested adding criteria to clarify that loans secured by transitional properties requiring construction are not "permanent loans," and support an additional requirement that any construction should be fully completed (i.e., would exclude partial completion of multi-phase properties as an off-ramp) to be considered permanent. Bank members, however, support the premise that a loan secured by a transitional property that is operational and occupied and covering debt service (even if additional work is scheduled to be completed) should be considered "permanent" as an off-ramp as well.

(1) Retain the borrower-contributed capital exemption with important changes discussed below; and

(2) Modify the current HVCRE community development exemption to avoid unintended barriers to affordable housing projects and to promote lending to small businesses.

1. *Retain the HVCRE borrower-contributed capital exemption with key adjustments to help ease compliance burdens and reduce uncertainty.*

A borrower-contributed capital exemption should be retained under HVCRE and any other ADC exposure category. Fundamentally, such an exemption promotes prudent, low-leverage lending and encourages borrower discipline. Meanwhile, elimination of the exemption may actually increase risk in the system by removing any relative penalty, i.e., foregoing an exemption and being subject to a hefty capital surcharge, for offering highly-leveraged loans.

As the proposal's preamble states, banks have faced implementation challenges with respect to the HVCRE borrower-contributed capital exemption. CREFC members – again, including SA and AA banks, as well as non-bank lenders – believe that such an exemption plays a critical role in advancing the underlying purposes of the HVCRE and any other risk-weight structure and, from a policy perspective, is worth preserving and fixing.

Additionally, from a business perspective, despite uncertainty and variations in interpretation, many banks comply with the exemption to avoid the HVCRE capital surcharge. Banks should be permitted to continue exercising that choice, i.e., using borrower equity to reduce the required equity of the banks, regardless of whether they are subject to SA or AA requirements, rather than forcing all ADC loans – no matter how prudently structured – to carry the capital surcharge.

There are ways to improve the current borrower-contributed capital exemption without eliminating it entirely, namely, by addressing discrete elements within the exemption that have been especially problematic for banks and borrowers. While detailed improvements to the borrower-contributed capital exemption fall outside the scope of the current proposal, we hope they will be addressed in a future rulemaking to improve HVCRE. We have highlighted below a couple of areas where clarifications and/or adjustments would be helpful.

The value of land within the borrower contribution calculation, i.e., what counts in the 15% initial contributed capital, for example, is a point of particular consternation for CREFC's bank members. The current calculation appropriately allows for inclusion of contributed land; however, the land's value is based on the purchase price or cost basis, even when the value of land has clearly appreciated. Land value, as the primary determinant of the amount of proceeds a borrower can access, is essential to ADC transactions. The current purchase-price-based approach disadvantages borrowers who have been holding land for a long period of time, particularly in areas where property values have increased substantially, e.g., land purchased in Manhattan 40 years ago.

Tellingly, for virtually all real estate transactions, banks' prudent underwriting practices take into account both the cost basis and appraisal value of land—and those appraisal values are carefully analyzed by the banks. Therefore, one possible solution suggested by CREFC members is to allow banks to establish an appropriate land value based on a reasonable balance of various factors, including, *inter alia*: original purchase price; current appraisal value; the lender's judgment and prudent underwriting practices; the lender's experience; change in market conditions and valuation since the land was acquired; and length of time since the land was acquired. This type of approach reflects banks' current prudent underwriting practice of utilizing both the cost basis and appraisal value of an asset to determine the proceeds accessible by a borrower.

Furthermore, CREFC's bank and non-bank members agree that the exemption should allow for distributions of borrower equity/contributed capital prior to loan maturity, so long as the borrower equity in the transaction at no time falls below the 15% floor, e.g., if a borrower contributes more than the minimum 15% or borrower funds grow beyond the minimum, the amounts above and beyond the 15% can be distributed prior to loan maturity and/or conversion of the loan to permanent/non-covered status, in all cases in accordance with prudent underwriting.

There also may be room to clarify the denominator in the exemption's 15% calculation. According to our bank members, the current "as-completed" value presents challenges because it often is not determined until late in the underwriting process and can change over time as the borrower endeavors to pre-lease the property, which is a desirable action. Consider that the "as completed" value of a pre-leased office or retail building is higher than a non-preleased building. Counterintuitively, the current methodology results in a higher borrower capital requirement due to the larger denominator amount for a fully-leased building than for a fully-speculative building. Similarly, multifamily projects in high-demand areas are penalized because of their relatively high "as completed" value, despite expectations of high tenant demand and short lease-up periods. One alternative proposed by CREFC members would be to shift back to the more common lending underwriting model, a cost metric, e.g., the borrower contribution requirement as a percentage of total costs, not completed value.[7]

More generally, the terms and requirements under the current exemption could use additional detail and clarification. Regulators, for instance, should specify that the borrower's contributed capital can, at a minimum, be in the form of cash, unencumbered readily marketable assets, paid development expenses out-of-pocket and/or contributed real property improvements.

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[7] CREFC notes there currently is a mismatch in the calculation's numerator and denominator – land cost is used in the borrower's contribution (numerator), but the project's value is used in the denominator. And there may be an opportunity to rationalize this structure by shifting one or the other between cost and value. Some of CREFC's non-bank members believe, however, that the current approach is preferable.

Additionally, CREFC's bank members believe there should be more clarity around the treatment of subordinated debt and preferred equity as part of the borrower's 15% capital contribution in order to unify/standardize industry practice in this area. CREFC's members are divided with respect to how this issue should be clarified and resolved. Some bank members, for example, believe that mezzanine loans and preferred equity should count toward the borrower's 15% capital contribution, which would be consistent with accounting rules' treatment of subordinate financing on banks' balance sheets (i.e., not as liabilities). Some of our non-bank members, however, do not believe subordinated financing should count at all toward the borrower's 15% contribution.

Again, CREFC members feel strongly that, despite previous implementation challenges, the exemption should be retained and improved. We urge regulators to, at the very least, address the specific fixes to the HVCRE framework noted above in a new rulemaking process. We look forward to helping regulators craft the details of those improvements, including those related to this important exemption.

2. *Modify the community development exemption to avoid unintended negative impact on affordable housing projects and small business lending.*

First, the proposal's inclusion of SBA 504 loans, which are currently excluded from the HVCRE community development exemption, is welcome. Second, CREFC urges regulators to ensure that any community development exemption properly accounts for mixed-rate housing, i.e., developments with both market-rate and affordable housing units – projects that are growing in popularity because of their social benefits and are in high demand in dense urban areas, such as New York City and Washington, DC.

Specifically, regulators should allow for the proration of capital surcharges on affordable housing units in such mixed-rate scenarios. Without a proration mechanism, the exemption acts as a disincentive for these valuable projects and may actually discourage cost-effective solutions to the growing problem of housing affordability.

III. Grandfathering and transition rules should equip institutions with flexibility and sufficient time to adjust systems and business expectations.

If regulators do modify the HVCRE regime and/or create a second exposure category, CREFC's bank members believe that institutions should have the *option, not the requirement,* to re-examine and re-classify existing loans based on any new parameters. Consistent with the current proposal, they maintain, they should not be *required* to conduct any such re-examinations or re-classifications to comport with new definitions, exemptions and/or requirements, as this would impose a higher maintenance of effort than was originally priced into the transactions.

Additionally, finalization of any new requirements should be followed by a sufficient transition period for banks to re-work their reporting and originating procedures before any new construct becomes effective or enforceable. Phased-in or other appropriate enforcement relief should apply during any transition period as institutions adjust their systems and practices.

IV. Conclusion

For the foregoing reasons, CREFC urges regulators to withdraw the HVADC proposal and instead focus on making critical improvements to the existing HVCRE structure. Any exposure category—HVCRE or otherwise—should:

(1) Include a well-tailored definition of covered credit facilities that captures only those loans that – because of their actual risk level – warrant a capital surcharge;

(2) Retain the current borrower-contributed capital exemption with the critical changes and clarifications noted above;

(3) Expand the community development exemption to account for mixed-income housing projects and include lending to small businesses; and

(4) Contain grandfathering and transition rules that provide flexibility to banks to re-classify existing exposures – but not a requirement to do so – as well as ample time to adjust business practices and expectations to conform to any new regime or requirements.

We look forward to working with regulators on more detailed adjustments to HVCRE to make the structure more workable and less costly for all banks subject to the capital rule.

Thank you for your consideration.

Sincerely,

[redacted]

Lisa Pendergast
Executive Director
CRE Finance Council
(646) 884-7570
lpendergast@crefc.org