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Via Electronic Submission – www.regulations.gov

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

Re: Proposed Simplifications to the Capital Rule Pursuant to Economic Growth and Regulatory Paperwork Reduction Act of 1996
Docket ID OCC-2017-0018
RIN 1557-AE10

Dear Sir/Madam:

The Management of Mutual of Omaha Bank ("Bank") appreciate the opportunity to comment and provide perspective from those of us in the community banking industry on this very important issue. The Bank is particularly interested in the proposal related to High Volatility Commercial Real Estate ("HVCRE") and the creation of a new High Volatility Acquisition Development Construction ("HVADC") risk-weight exposure category. The Bank urges the regulators to withdraw the HVADC proposal and focus on improving the current HVCRE framework.

The proposed HVADC framework would apply to a broader range of loans due to both the replacement of the "secured-by" test with the "primarily finances" test and the elimination of the contributed capital exemption. The change in capital treatment for HVADC exposures will impact the availability and affordability of ADC financing. The broader scope of HVADC may deter creditworthy projects that would promote local economic development and job creation. To the extent borrowers may find it more costly to finance ADC activities through bank lenders, they may turn to nonbank lenders for alternative financing options.

The scope of HVCRE or any other ADC exposure category needs to be carefully and clearly defined. Any exemptions must be designed to promote prudent underwriting and avoid inappropriately incentivizing borrowers to seek non-bank financing. The HVADC framework does not promote safe and sound underwriting and loan structures, but rather groups all ADC loans together in an exposure category that will require significantly more capital than an unsecured commercial loan.

The HVCRE framework can be improved by addressing the following elements within the borrower-contributed capital exemption:

- Replace the equity requirement of 15% of the "as-complete" valuation with 15% of project costs. The use of the "as-complete" value has caused inappropriately higher equity requirements on pre-sold or pre-leased developments due to the value created from the leasing or sales contract that is typically recognized by the appraiser's estimate of "as-complete" value.

- Revise the treatment of land contributed to a project to allow a FIRREA-compliant appraised value conclusion towards the 15% initial capital threshold. The inclusion of land at cost has created a disadvantage to borrowers who have held land for a long period of time.

- Provide a clear definition of permanent financing that aligns with industry practices and does not require a payoff or second closing such as "a source of repayment that is adequate to support the debt service and expenses of the real property."

- Revise the requirement to maintain all borrower-contributed and internally-generated capital in the project to allow distributions so long as the borrower equity does not go below 15%. The current requirements may encourage borrowers to put less equity in a project. Additionally, the current requirement does not allow appropriate distributions related to the partial sale and release of collateral and may encourage borrowers to seek financing from unregulated sources.

ADC loans are an important component of community development and generate jobs in our communities. The proposed ADC framework will restrict the ability of community banks to make prudently underwritten, profitable loans to develop our communities.

In addition to the proposed rules related to ADC financing, the Bank is interested in the proposed rules related to mortgage servicing assets ("MSAs"). The Bank agrees with the proposal to increase the deduction threshold on MSAs to 25 percent of common equity tier 1 capital. However, for the portion of MSAs that are not deducted, we believe the risk weight should be set no higher than 100%. The 250% risk weight is inappropriately punitive and will continue to cause a migration of mortgage servicing to non-bank mortgage servicers. Mortgage servicing is an important way to maintain valuable long-term customer relationships, while allowing the bank to sell a long term asset to manage its interest rate risk. Additionally, banks have demonstrated the ability to successfully hedge against the interest rate risk associated with MSAs.

The Bank appreciates the efforts to simplify compliance requirements.

Respectfully submitted,

[redacted]

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