United Bank
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December 22, 2017

Federal Deposit Insurance Corporation
Board of Governors of the Federal Reserve System
Office of the Comptroller of the Currency

Re: Proposed Simplifications to the Capital Rule Pursuant to Economic Growth and Regulatory Paperwork Reduction Act of 1996.

Dear Sir/Madam:

United Bank is a $600 million commercial bank located in West Michigan. With total construction loans in excess of $60 million and multiple branches in the West Michigan market we are interested in any proposed regulation that may slow economic growth in the West Michigan market or result in increased costs to our borrowers and our community.

We are happy to see the Agencies embracing the attitude of regulatory reduction, whether it is through call report simplification, reevaluation of the examination process and frequency, or the relaxing of regulations that have proven to be ineffective or outdated. However, we do not believe that the current proposals regarding HVCRE/HVADC loans represent an improvement or simplification in existing regulations. With regards to risk based capital regulations, it appears that over time the agencies have stratified various broad types of assets and generalized the risk by using evidence that may not represent current actual risks. Such generalizations are dangerous and are likely what led to the last financial crisis. For example, while 1-4 family residential properties and associated developments contributed significantly to the last recession, the risk weighting for these asset groups remained relatively unchanged. The same can be said for municipal bonds in which the agencies have established lower risk weighting for General Obligation bonds and higher risk weighting for Revenue Obligations. Recent municipal bankruptcies would indicate the opposite is true for these obligations. The last example to demonstrate the lack of correlation between risk and risk weighting is the relative risk weights between HVCRE/HVADC loans and credit card, leveraged or unsecured lending. The latter group is potentially more risky but requires less regulatory capital regardless of cash equity, loan-to-value, or amortization period.

These examples support that broad generalization for specific asset classes can result in poor policy and create an atmosphere for risk taking above and beyond the capital allocation. For these reasons United Bank believes that any broad categorization of a category of assets is poor policy and that the proposed rule should not be adopted without significant changes and further public comment and research. Additionally, United Bank feels that the current risk based capital rules do not promote a level playing field across the industry as these broad categories of asset classifications reward those who underwrite riskier assets by providing them the same risk weighting (and ultimately higher risk adjusted returns) only because they fall in a substantially unregulated asset class. Outlined below are our answers to select questions contained in the NPR.

Question 1: The agencies seek comment on whether the scope of the HVADC exposure definition presents operational concerns and is clear. Specifically, what, if any, operational challenges would banking organizations expect when determining whether more than 50 percent of the loan proceeds will be used for acquisition, development, or construction purposes?

The HVADC exposure definition does present operational concerns. The obvious concern is that the existing and proposed regulations create additional tracking requirements for construction loans above and beyond the standard Call Report categories creating additional reporting and auditing requirements to ensure accurate filings. These requirements create an additional burden on our bank, adding to the customer costs for construction loans. Furthermore, the lack of bright line tests for exclusions also create "differences of opinions" between all interested parties that can only be remedied through appeal rights and further expense that is eventually passed on to the consumer. The lack of consistency between definitions for permanent financing between the proposal and call report definitions is just one example that will add greater operational expense related to Call Report preparation. The lack of a clear definition of a community development loan without referral to another ambiguous definition is yet another example.

Question 2: The agencies seek comment on the degree to which the proposed HVADC exposure definitions would simplify and enhance consistency in the treatment for credit facilities financing real estate acquisition, development, or construction. What other simplifications should the agencies consider to improve the simplicity and consistent treatment of these credit facilities?

Neither the existing or proposed regulation provides any simplicity or consistent treatment of credit facilities, because by the nature of commercial underwriting, credit facilities are not homogeneous. Additionally, the purpose-based determination for exposure purposes is inconsistent with other risk weighting categorizations and is inconsistent with general risk principals. For example purpose based ADC loans that are secured by income producing properties, cash, financially responsible guarantees, or other liquid collateral would be classified as HVADC and risk weighted at higher rates even though the potential risk of loss is potentially lower. Again, this reclassification will create operational complexities as it does not align with existing Call Report instructions. The agencies should eliminate the purpose based test all together. Other simplifications could include straight loan-to-value criteria for exclusions as opposed to the more complex and subjective exclusions considered. While loan-to-value exclusions may allow paper equity in a development project, in certain circumstances a lower loan-to-value with paper equity may be better than an 85% loan-to-value with cash equity. The Agencies should also address if these issues would more appropriately be addressed through amendments of the Federal Deposit Insurance Corporation Improvement Act of 1991.

Question 5: The agencies seek comment on the clarity of the exemption for permanent loans in the proposed HVADC exposure definition and the ease with which banking organizations can determine whether an exposure qualifies for this exemption. What, if any, additional clarification would help banking organizations identify exposures that meet the permanent loan exemption?

The new definition creates a divergence from the existing Call Report definition which relies on completion of construction or amortizing status for non-speculative transactions. This new category of loans created by the NPR requires demonstrated performance as well as documented cash flow. In some cases, this documented cash flow may not be supported by financial data until one or more years after the construction has been completed. For example, adding on to a facility may result in reclassification to an HVADC loan. While the facility may be completed and removed from the ADC Call Category, a new tracking mechanism will have to be put in place until the borrower has provided financial information that demonstrates they can make the payments that they have been making for the last several months. The volume of examples that were provided in the NPR to explain this concept reveals that the proposed regulation lacks clear and plain language.

Question 6: The agencies seek comment on the agencies' goal of achieving an appropriate balance between the proposed calibration and expanded scope of application for HVADC exposures. The agencies are interested in any additional data on the impact of the proposed rule's capital treatment of HVCRE exposures and the new capital treatment of HVADC exposures on bank holding companies, savings and loan holding companies, and insured depository institutions, both in the aggregate and on an individual banking organization level.

It is currently projected that the regulation as proposed would reduce bank capital ratios. The proposed rule will likely reduce the industry appetite for construction loans regardless of loan-to-value or risk as there is little in the NPR to differentiate between a low risk and high risk construction project, guarantor support, or community based need due to the underlying complexities and adverse capital treatment being proposed. Alternatively, the proposed and the existing regulation have or will result in an increased cost associated with business development and construction for all consumers. Neither the current or proposed regulation is better than the other. While different in language and the types of exceptions, both are equally as complex. In some regards, the new regulation is more complex as it will require greater attention and scrutiny to ensure that perfectly acceptable construction deals meet the new stringent standards to provide the credit needed for economic expansion.

Question 15: The agencies also seek comment on whether they should consider more comprehensive simplifications to the capital rule for small and medium-sized banking organizations by, for example, further simplifying risk-weighted assets and the definition of capital, or reducing the number of regulatory capital ratios, consistent with legal requirements. What specific simplifications should the agencies consider and why?

The agencies should consider a fundamental change in the manner in which banking organizations calculate and comply with minimum capital standards. As stated previously, the capital rules have become a complex calculation that lack reasonable, credible evidence for the varying "Risk Weights" applied. As previously mentioned, the risk weightings for leveraged lending, unsecured lending, and municipal bonds lack any correlation to general risks of loss observed in the industry. The same concerns could be noted with Subprime residential lending. Furthermore, the current capital rules incent lending up to the maximum allowable limits to maximize the short term return on capital. The following summarize significant deviations between risk and regulatory capital rule "Risk Weights".

Loan Category	10 Year Avg Loss Rate*	Risk Weighting
1-4 Family - Closed End First Lien	0.15%	50%
All 1-4 Family	0.24%	50-100%
Owner Occupied Nonfarm Nonresidential	0.10%	100%
Non Owner Occupied Nonfarm Nonresidential	0.11%	100%
1-4 Family Real Estate Construction	0.81%	100%
Other ADC**	0.57%	135%-150%
Credit Cards	1.20%	100%

*Source Quarterly Loan Performance Indicators – All FDIC – Insured Institutions – FDIC Quarterly Banking Profile. Q4 2007 through Q3 2017

**Other ADC losses would appear to include a mix of loans both excluded and included in the scope of the HVCRE and HVADC definition. Most notably, this category would include vacant land for future 1-4 family developments or lot loans that would appear to be excluded from the 135% risk weighting by the new definition and would appear to be the contributing factor to the sizeable 10 year average loss rate for 1-4 Family Real Estate Construction.

Given the lack of consistency between risk of loss and "Risk Weights" it would seem appropriate that this ratio and method of determining capital adequacy be eliminated or substantially revised. There appears to be little if no correlation between the two, particularly within the lending function when underwriting standards can vary widely within the ranges of acceptability.

We appreciate the willingness of the Agencies to open the capital regulations up for discussion. We hope that this process will move towards a simpler but fair process in determining statutory capital minimums. We continue to feel that focusing on certain small subsets using broad generalizations is poor policy and that a more comprehensive review of Capital standards should be undertaken for community banks. We agree that exploring simple leverage requirements would be a worthwhile exercise. However, simple should not be sought without including other objectives such as fairness, consistency, and risk. If you have any questions regarding the content of this letter, please do not hesitate to contact the undersigned at (616) 559-7000.

Sincerely,

[redacted]

Eric L. Walbeck [redacted]
Executive Vice President – Senior Risk Officer
United Bank of Michigan