

December 21, 2017

Legislative and Regulatory Activities Division  
Office of the Comptroller of the Currency  
400 7th Street SW.  
Washington, DC 20219

RE: Notice of Proposed Rulemaking: Docket ID OCC-2017-0018  
Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory  
Paperwork Reduction Act of 1996

Ladies and Gentlemen:

I am a staff member at SPEDCO, one of 220 Certified Development Companies (CDCs) nationwide involved in the SBA 504 Development Company program. I appreciate the opportunity to comment on the Notice of Proposed Rulemaking regarding "*Simplification to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996.*"

SPEDCO supports the efforts of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation to simplify compliance with certain aspects of the capital rule, which will be beneficial to banks and small business borrowers. Below is the relevant section from the Notice, followed by our comments.

## *2. Scope of the HVADC Exposure Definition*

*c. Community Development Projects: The HVCRE exposure definition exempts community development projects. The proposed HVADC exposure definition would continue to exempt community development projects. However, the agencies are proposing to simplify the definition by removing the reference to the broader statutory citations, 12 U.S.C. 24 (Eleventh) and 12 U.S.C. 338a. Under the proposed rule, all credit facilities financing the acquisition, development, or construction of real property projects for which the primary purpose is community development, as defined by the agencies' Community Reinvestment Act rules, would be exempt from the HVADC exposure category. In addition, the agencies are proposing to remove the exception to the exemption for activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's (SBA) Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less, unless they meet another exemption in the rule. Such loans are required to have a community development purpose under interagency guidance. The proposed simplified exemption for community development projects is not intended to substantively alter the scope of the exemption for community development projects set forth in the current HVCRE exposure definition.*

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*Question 4: The agencies seek comment on whether the proposed community development exemption is clear. What, if any, additional clarification would help banking organizations identify exposures that meet the community development exemption? Please describe any implementation challenges with the exemption.*

I want to specifically ensure that the proposed community development exemption, as it pertains to SBA's Development Company program, applies to the **bank's interim construction loan** provided to the small business borrower until project construction is complete and permanent financing can be put in place.

The exception language to the HVCRE exemption is found in the current final rule under PART 324—CAPITAL ADEQUACY OF FDIC-SUPERVISED INSTITUTIONS, §324.2 Definitions., and states the following:

*“High volatility commercial real estate (HVCRE) exposure means a credit facility that, prior to conversion to permanent financing, finances or has financed the acquisition, development, or construction (ADC) of real property, unless the facility finances: (1) One- to four-family residential properties; (2) Real property that: (i) Would qualify as an investment in community development under 12 U.S.C. 338a or 12 U.S.C. 24 (Eleventh), as applicable, or as a “qualified investment” under 12 CFR part 345, and (ii) Is not an ADC loan to any entity described in 12 CFR 345.12(g)(3), unless it is otherwise described in paragraph (1), (2)(i), (3) or (4) of this definition.”*


By simply deleting the **exception “(ii) Is not an ADC loan to any entity described in 12 CFR 345.12(g)(3), unless it is otherwise described in paragraph (1), (2)(i), (3) or (4) of this definition,** this clarity will be achieved in the proposed new rule.

I also suggest that the agencies provide written guidance to banks and onsite examiners that clearly links this HVADC exemption to any ADC loans provided by the bank that are part of an SBA 504 loan project.

Thank you for this opportunity to comment on the advisability to provide the HVADC exemption to banks participating in SBA 504 Loan Program projects.

Sincerely,

**SPEDCO**

  
**Paul Draper**  
**Loan Processor and Credit Analyst**