M&T Bank

One M&T Plaza, Buffalo, NY 14203

November 27, 2018

Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street SW., Suite 3E-218
Washington, DC 20219
Docket ID OCC–2018–0268; RIN 1557–AE48

Board of Governors of the Federal Reserve System
Ann E. Misback, Secretary
20th Street and Constitution Avenue NW
Washington, DC 20551
Regulation Q; Docket No. R–151621; RIN 7100 AF-15

Federal Deposit Insurance Corporation
Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
550 17th Street NW
Washington, DC 20429
RIN 3064-AE90

Via Electronic Mail

Subject: **Regulatory Capital Treatment for High Volatility Commercial Real Estate (HVCRE) Exposures**

Manufacturers and Traders Trust Company, Buffalo, New York ("M&T")[1], welcomes the opportunity to submit these comments in response to the proposed rulemaking issued by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve (collectively "the Agencies"), proposing to amend the High Volatility Commercial Real Estate (HVCRE) risk-based capital rule to implement section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA)[2].

The agencies invite comments on a number of implementation and interpretation issues. Our responses and comments to certain of those issues are set forth below.

[1] Principal subsidiary of M&T Bank Corporation (NYSE Symbol:MTB). A bank holding company headquartered in Buffalo, New York, which had assets of approximately $116 billion as of September 30, 2018.
[2] 83 Fed. Reg. 48990 (Sept. 28, 2018). Available at: https://www.federalregister.gov/documents/2018/09/28/2018-20875/regulatory-capital-treatment-for-high-volatility-commercial-real-estate-hvcre-exposures

Question 2: The agencies request comment on whether the terms "secured by land or improved real property," "primarily finances," and "income-producing real property" are clear or whether further discussion or interpretation would be needed. The agencies also request comment on whether their proposed interpretations of these terms are appropriate and whether loans secured by vacant land except agricultural land should be included in the scope of the revised HVCRE exposure definition.

M&T Bank requests further clarification on the term 'primarily finances'. Does the express reference to "incoming-producing real property" in the criteria necessarily mean that loans secured by owner-occupied real estate are excluded from HVCRE consideration?

Question 3: The agencies invite comment on whether their proposed interpretations of the scope of the one- to four-family residential properties exclusion for purposes of the revised HVCRE exposure definition are appropriate and clear, including which types of townhomes, condominiums, cooperatives, and mobile home-related loans are excluded. The agencies also invite comment on whether it is appropriate to include one- to four- family lot development loans within the scope of this exclusion.

The agencies expressly exclude from the 1-4 family residential property exemption any loan secured by a real property with 5 or more dwelling units, and any condominium/cooperative construction loans. It is unclear whether condominiums/cooperatives with less than 5 units are eligible for the exemption.

M&T Bank also requests further clarification on the interpretation of what is within the scope of the one-to-four family property exclusion. Specifically, M&T Bank notes that a loan secured by property with five or more units could be interpreted to include loans to construct residential subdivisions, which have entirely different credit/repayment characteristics than a multi-family, high-rise apartment/condominium building.

Additionally, the proposed rule appears to be inconsistent with the FFIEC 031 and 041 General Instructions for FR9YC Reporting which states that 1-4 family residential construction loans include: "Loans secured by apartment buildings undergoing conversion to condominiums regardless of the extent of planned construction or renovation, where repayment will come from sales of individual condominium dwelling units, which are 1-4 family residential properties." M&T requests further guidance on this apparent inconsistency.

Finally, M&T Bank requests further clarification on how to define and interpret cooperatives in this context.

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We appreciate your consideration of our comments. If you have any questions about this letter, or about any of the issues raised by our views, please do not hesitate to call the undersigned at (212) 350-2550.

Sincerely,

[redacted]

Peter D'Arcy
Senior Vice President