January 4th, 2020

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Docket ID OCC-2020-0005

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC
20429.
RIN 3064-AF32

Ann Misback, Secretary
Board of Governors of the Federal Reserve
System
20th Street and Constitution Avenue NW
Washington, DC 20551
Docket No. R-1725

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW, Washington, DC 20552
Docket No. CFPB-2020-0033

Re: *Role of Supervisory Guidance*

Dear Sir or Madam,

The Conference of State Bank Supervisors[1] ("CSBS" or "state regulators") appreciates the opportunity to comment on the agencies' notice of proposed rulemaking ("NPR") that would codify the Interagency Statement Clarifying the Role of Supervisory Guidance issued by the agencies on September 11, 2018. State regulators agree with the conclusion in the NPR that supervisory criticisms should not be based only on a violation of statute, regulations, or order, including a "demonstratable unsafe or unsound practice.[2] Additionally, state regulators believe that supervisory guidance remains a beneficial tool to communicate supervisory expectations to the industry.

Supervisory criticisms should continue to be specific as to practices, operations, financial conditions, or other matters that could have a negative effect on the safety and soundness of the financial institution, could cause consumer harm, or could cause violations of laws, regulations, final agency orders, or other legally enforceable conditions. The proactive identification of supervisory criticism or deficiencies that do not constitute violations of law facilitates forward-looking supervision, which helps address problems before they warrant a formal enforcement action. Regulators must identify and document emerging risks at a financial institution, determine how elevated risk profiles may adversely affect an institution's future performance

[1] CSBS is the nationwide organization of state regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. CSBS supports the state banking agencies by serving as a forum for policy and supervisory process development, by facilitating regulatory coordination on a state-to-state and state-to-federal basis, and by facilitating state implementation of policy through training, educational programs, and examination resource development.

[2] The agencies are clarifying in the proposed Statement that the term ''criticize'' includes the issuance of MRAs and other supervisory criticisms, including those communicated through matters requiring board attention, documents of resolution, and supervisory recommendations (collectively, supervisory criticisms)

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and recommend appropriate regulatory actions that are commensurate with a financial institution's condition[3].

It is essential that regulators proactively identify and communicate potential issues through supervisory criticisms before issues rise to violations of law or regulation. State regulators believe that early proactive identification of supervisory issues meant to enhance safety and soundness is more beneficial than a punitive approach of escalating supervisory criticisms to a violation of statute, regulations, or order, including a "demonstratable unsafe or unsound practice.".

Additionally, state regulators believe that supervisory guidance provides important insight to industry and ensures consistency in the supervisory approach. Supervised institutions frequently request supervisory guidance on questions that are not specifically addressed in statutes or regulation. The current pandemic has amplified the requests for supervisory guidance and interpretation, and it is apparent institutions want clarity and guidance from regulators. Guidance can serve as an effective tool in communicating general supervisory expectations based on various risk environments, but it is acknowledged that supervisory responses by regulators should always be tailored to institution specific situations. We encourage the agencies to continue the important practice of developing interagency guidance to bring transparency and consistency to supervisory practices.

State regulators want to reiterate that proactive supervisory communication between examiners and supervised institutions throughout the examination process helps facilitate a safe and sound banking environment. Early identification of deficient practices serves the interest of the public and supervised institutions.

Sincerely,

[redacted]

John Ryan
President & CEO

[3] Federal Deposit Insurance Corporation OIG Report Number EVAL-18-004

CONFERENCE OF STATE BANK SUPERVISORS

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