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Bankers
Association
of Texas**

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May 19, 2021

Chief Counsel's Office
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RE: Docket ID OCC-2021-0002; Federal Reserve R-1741 and RIN No. 7100-AG11; FDIC RIN 3064-AF73

Amendments to the Capital Rule to Facilitate the Emergency Capital Investment Program

Ladies and Gentlemen:

The Independent Bankers Association of Texas (IBAT) appreciates the opportunity to comment on the above referenced Interim Final Rule. IBAT is a trade association representing over 350 community banks operating in Texas. Approximately 40% of IBAT's member banks are organized under Subchapter S of the Internal Revenue Code. Our association has supported the Subchapter S option for almost 30 years and has been active in attempting to make this election more attractive and available for community banks as a strategy to remain independent and provide local banking services to communities across the nation.

We are aware that a number of comment letters have been submitted requesting the agencies revisit the treatment of Subchapter S banks who are also Minority Depository Institutions (MDI) or Community Financial Development Corporations (CDFI) in the Emergency Capital Investment Program (ECIP).

We are especially hopeful that subordinated debt instruments would be considered Tier 1 rather than Tier 2 capital and that they would also be treated as equity rather than debt under the Federal Reserve's Small Bank Holding Company (SBHC) Policy Statement.

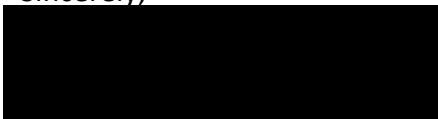
As you are aware, Subchapter S banks can issue only one class of stock. While IBAT and others have supported initiatives in Congress to address this issue and allow preferred shares, that has not yet become a reality. Further, there is precedent for this treatment as well as the deduction of this contribution from the calculation of debt-to-equity requirements in the SBHC policy in the Troubled Asset Relief Program (TARP) in 2009. As originally proposed, TARP did not address the nuances with Subchapter S banks who were precluded from participation in the first iteration of this program. We are grateful the Treasury recognized the importance and significance of these banks and made appropriate adjustments.

The ECIP will provide much needed relief to those small businesses and consumers in rural and low-to-moderate income areas severely impacted by the pandemic by providing capital to financial institutions who are well-equipped to address those needs. As currently proposed, those institutions who elected a Subchapter S structure will not be able to take full advantage of the ECIP. We believe that the ultimate result is a less-than-optimal deployment of assistance to those Congress intended to help.

We urge the agencies to reconsider treatment of Subchapter S financial institutions to provide parity with C-Corps as well as allow them to take full advantage of the opportunities to assist their customers and restore and enhance economic viability to areas significantly impacted by the pandemic.

Thank you for considering our comments on this important issue.

Sincerely,



Christopher L. Williston, CAE
President and CEO