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OFFICE OF THE CHAIRMAN
CORRESPONDENCE ASSIGNMENT

Comments

OC 12-0217 ASSIGNED TO: ~~RMS~~ DATE: 08/31/2012

CORRESPONDENT: BARRY ORR
CHAIRMAN AND CEO
FIRST BANK & TRUST
9816 SLIDE ROAD
LUBBOCK, TEXAS 79424

MR. ORR OF FIRST BANK & TRUST HAS CONCERNS OF THE IMPACT OF BASEL III ON COMMUNITY BANKS.

THE ATTACHED CORRESPONDENCE HAS BEEN ASSIGNED TO RMS FOR ATTENTION AS APPROPRIATE.

IF YOU HAVE ANY QUESTIONS RELATING TO THIS ASSIGNMENT, PLEASE CONTACT THE CORRESPONDENCE UNIT OF THE OFFICE OF LEGISLATIVE AFFAIRS AT 898-7055.

DISTRIBUTION:
MS. RYAN

FirstBank & Trust

Barry Orr
Chairman & CEO

August 20, 2012

Mr. Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation
550-17th St., N.W.
Washington, DC 20249-9990

Re: BASEL III Capital Rules as proposed for 1-4 family residential lending;
Residential construction and home ownership

Dear Mr. Gruenberg:

The basic business model for community banking is the backbone of economic prosperity. The repeal of Glass-Stegall has enabled large, complex financial institutions to evolve; thus creating the financial meltdown this country has experienced. Four large banks currently control over 55% of this nation's banking assets. This monopoly has created additional barriers to small business accessing necessary credit to operating their business, while allowing these large banks to participate in derivatives, subprime mortgages and default swaps. Community banks did not participate in the creation or utilization of these instruments; however with the implementation of Basel III we are being penalized for such. **Community banking maintains the highest capital levels in the banking industry.** Our capital is utilized to meet the needs of our community, consumers, and small business who create jobs, buy and sell inventory and pay taxes. Basel III is another impediment of regulatory interference with free enterprise and will only serve to further stall the economy.

A tiered approach should be recognized as the most equitable solution to properly distinguish the differences between Community Banking and the Wall Street national/international banking institutions. Community Banking should be held to the current standards of BASEL 1. Perhaps a different standard should be applied to large financial institutions in excess of $25 billion based on risk appetite.

I urge you to evaluate the impact of the new risk weighting guidelines for single family residential lending. The proposal under BASEL III "will bring the housing industry to its knees" in this country. The housing market has slowly begun to stabilize, coming out of the economic collapse of 2008. The new capital rules as proposed will set the housing industry back to a 1930's era of demise.

The proposed asset risk weighting standards will have significant adverse unintended consequences in the residential construction, lending, and sales markets as follows:

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GSE's - Under BASEL III, U.S. Government guaranteed loans will receive the lowest risk rating (most favorable). At a time that Congress is trying to phase out GSE in the mortgage lending spectrum, the BASEL III Accord virtually assures that the government is in housing for the long haul. Private capital funding for home loans face an extreme disadvantage under the proposal.

Single Family Construction Loans - Requiring a risk weighting increase of 50% in capital requirements for SFR construction unless the home builder pays 15% of appraised value in cash equity down, will create liquidity deterrents for virtually any homebuilder. In today's construction lending, the standard is 80% loan to value of the appraised completed home. The proposed rules increase the standard to 65% LTV. Only large publicly held homebuilders with access to the public capital markets would be able to attain these standards.

Balloon Type Mortgage Loans - Additionally, balloon type mortgages loans, which have been a long time stalwart asset for community banking for managing interest rate risk (rather than going the way of thrifts with thirty year fixed rate loans that eventually put them out of business) receive a punitive risk weighting under Basel III.

Second Lien Equity Purchase Loans - Second lien loans for equity purchase interest in homes receive the most drastic risk weighting increase of 100% to 200%. This type of lending has been crucial to assist homebuyers in obtaining the most favorable interest rate pricing.

The process for qualifying under today's secondary market rules, restrictions, and credit score requirements eliminates any form of high risk lending. Furthermore, any loan exceeding 80% LTV receives mortgage insurance **if** you can pass the litmus tests required by today's mortgage insurance underwriters. Thus, those second liens are not high risk lending. It is smart business, favorable for the consumer and the Community Bank.

A homeowner purchasing a $750,000 home will obtain a maximum conventional loan of $417,000, taking advantage of the low rate secondary market FNMA or FHLMC pricing, they pay 10% to 20% down ($75,000 to $150,000) and obtain a second lien purchase money equity loan for the balance of $150,000 to $250,000 from their local Community Bank.

Land Acquisition and Development - The increase in risk weighting on land acquisition and development for lending on one to four family residential properties further weakens the outlook for the housing market because of significant increased capital standards placed on Community Banks to finance these types of projects. In smaller communities across the country, Community Bank financing of these projects is the only source of funding. The additional risk weighting of this type of loan creates an obstacle cannot be overcome in the financing of those projects.

The risk weighting on capital under BASEL III, as it applies to single family construction and home loans is extremely onerous and will impact businesses and consumption across a wide spectrum, including but not limited to realtors, title companies, surveyors, home furnishing stores, sub-contractors, building material suppliers, Banks, mortgage lenders, will all experience the adverse implications as financing for construction and home ownership becomes more restricted and more expensive as Banks apply the cost of additional capital to support this type of lending. The end result will be:

- Community Banks will reduce their participation in home lending, forcing the business to the "shadow banking system".
- Community Banks will reduce their participation in home construction due to higher capital requirements to support construction lending.
- Pricing for construction loans and home loans will increase to justify the additional capital requirements placed on banks, thus increasing the cost of home ownership.

Bottom line, the consumer loses again................

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Lastly, the premise of measuring and maintaining risk weighting capital standards based on loan to value for residential lending will create an insurmountable cost to Community Banks in terms of personnel resources, appraisal costs, monitoring, software, technology programming, and a continuous burden of regulatory costs. An alternative solution must be created to measure high risk lending. Loan to value has no application to the ability of borrowers to repay a loan. I would present that today's mortgage loan underwriting guidelines mitigate high risk lending. A method of measurement of risk through credit scoring maintenance would appear to be the more sensible approach for defining a "high risk loan".

We respectfully request that the unintended consequences effecting the housing industry be given consideration before any significant capital rule changes are placed on Community Banking.

Thank you for your attention in this matter.

Sincerely,

Barry Orr
Chairman/CEO

BHO/md

cc: David Miller
Texas Homebuilders Association

Joe Stewart
Texas Association of Realtors

Leslie Midgley
Texas Land Title Association

Chris Williston
The Independent Bankers Association of Texas

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