



Regional Development Company (RDC)

The is a Comment on the **Comptroller of the Currency (OCC) Proposed Rule: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction**

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Comment Period Closed
Dec 26 2017, at 11:59 PM ET

ID: OCC-2017-0018-0048

Tracking Number: 1k1-90h7-tlz6

Document Information

Date Posted:

Dec 21, 2017

RIN:

1557-AE10

[Show More Details](#)

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Regional Development Company
(RDC)

Comment

The Regional Development Company (RDC), located in Valparaiso, IN and Hazel Crest, IL, support the statement from our national association NADCO as follows:

The National Association of Development Companies (NADCO) appreciates 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." NADCO is the association that represents the 220 Certified Development Companies (CDCs) involved in the SBA Development Company program. During federal fiscal year 2017, these CDCs provided \$11.3 Billion in SBA Development Company program financing to small businesses, representing 6,200 projects totaling over \$14 Billion, and creating or retaining 78,339 jobs.

NADCO and its members support 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. In particular, we want to thank the agencies for the proposed change in community development project exemptions. We believe that this exemption, with a slight clarification, will be beneficial to banks and small business borrowers.

NADCO wants 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 SBA 504 Loan Program is designed to provide up to 90% long term, fixed asset financing for small businesses. Typically, the bank provides 50% of the needed financing, and the SBA 504 loan provides 40% of the needed financing. One unique feature of the SBA 504 Loan Program is that it only provides permanent financing and therefore cannot provide the necessary interim construction financing if the small business project involves construction. In those cases, the bank must advance the entire 90% financing to the small business until the project is complete, at which time the SBA 504 loan can fund its 40% junior position, and the bank will be reduced to its permanent 50% portion. Due to these unique circumstances involving construction and the SBA 504 loan, banks will not advance construction funds to the small business borrower until the CDC has secured SBA's approval for the

take-out 504 loan. SBA's approval, evidenced through the instrument "Authorization for Debenture Guaranty (SBA 504 Loan)," provides the assurance needed by the bank to go forward with the interim construction loan for the small business borrower's project.

NADCO is providing this level of detail to ensure that the agencies, most specifically the onsite examiners, understand the relationship between the bank's interim construction loan and the SBA 504 Loan Program. It is our hope that the changes made in this proposed new rule will make this HVADC exemption clear for both participating banks and onsite examiners.

The exception language to the HVCRE exemption is found in the current final rule under PART 324CAPITAL 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."

On the surface, it appears that 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.

NADCO would 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.