Robert E. Feldman, Executive Secretary
Att: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington DC 20429

April 17, 2006

RE: FIL-4-2006 Commercial Real Estate Lending Proposed Interagency Guidance (No. 2006-01)

Dear Mr. Feldman:

As stated in the FIL "the proposed guidance reinforces existing guidelines for real estate lending and provides criteria for identifying institutions with CRE loan concentrations that may warrant greater supervisory scrutiny. Such institutions should have robust risk-management systems in place and capital levels higher than the regulatory minimums and appropriate to the risk associated with these concentrations." I want to comment on the issues that some community banks may have with this FIL proposal.

Even though we will continue to run our institution in a safe and sound manner consistent with the regulator's rating, the proposal places some harsh requirements on all banks even for a bank as safe and sound as Bank of American Fork. For example:

These proposed requirements may be an overburden for community banks under $500 million. Most often small community banks don't have the necessary personnel to implement these proposed changes. These small community banks know their lending market and this extra burden may only force them to sell out to larger banks, thereby, could hurt the overall banking environment. We need small community banks and we need to make sure examiners don't have ammunition from subjective regulatory policies that may hurt banks. Small community banks under $500 million simply don't have the resources to pay for documentation burden associated with added stringent requirements as stated in the proposal.

While we understand and agree with some of the Agencies' concerns expressed in the proposal, we believe that others are unwarranted and that these particular proposed new requirements would mark a major step in the direction of government forcing a large number of community banks to sell themselves to larger banks due to an inability to operate profitably in a regulatory environment designed to put them at an extreme disadvantage.

General Concerns

We agree with the idea that having too many loans that present similar types of risk constitutes a "concentration" of risk that ought to be avoided. Nonetheless, we strongly disagree:

- with the incorrect premise that all business loans secured by mortgages on real estate present similar kinds of risks and, therefore, should be considered a single “concentration” of loans for the purpose of evaluating credit risk;
- with the incorrect premise that loans secured by mortgages on real estate constitute a greater risk of loss to banks than loans that are not secured by mortgages;
- with the conclusion (drawn from these two incorrect premises) that community banks with a large number of real estate loans should be required to hold higher levels of capital than other banks because they present a riskier profile;
- with the further conclusion that community banks with a large number of real estate loans should be required to hold higher levels of loan loss reserves than other banks because they present a riskier profile; and
- with the amount of time, money, effort and paperwork that community banks should be required to do to disprove the assumption that they have an unsafe “concentration” of real estate loans.

Concentration Of Credit

Seasoned multi-family rental properties should not be put into the same catagory as construction loans. I feel they present a much different and a much lower risk. Therefore, I would suggest that a higher percentage of multi-family properties than the 300% of capital be allowed. I would suggest closer to the 500% of capital.

Many of our senior loan officers are survivors of the real estate market decline of the 80's and personally do not want to experience that environment again. We are not opposed to some form of additional monitoring. However, adding an additional policy and set of procedures (to the extent proposed) to our already full set of Regulations, Acts and numerous existing policies is not necessarily the answer. A simple recognition of the total dollar amount of construction/development loans and acknowledgment of the risks therein would be much less burdensome.

We agree that bank's on the whole have increased loan portfolios in this area. Current demographics and future projections on the growth for the State of Utah would tend to support this type of activity.

We have not seen an increase in the number of bank failures, this push for intense detailed oversight has shades of providing examiners with added ammunition for no reason. While I am sure there are concerns with some banks and their commercial real estate loans I do not think all banks should have to suffer under the new proposal. There are many items in the new proposal which I believe all banks should follow.

Under Risk Management Principles - Underwriting - I do not believe we should be required to have a feasibility study and sensitivity analysis for all commercial real estate lending. There is an occasion that this may be needed, but to require it for all loans is a waste of time and money.

A market analysis is another item that should not be required. There is an occasion that this may be helpful but it should not be required on every loan.

The biggest area of concern is the level of regulatory capital. I do not agree with the assumption that all banks that make commercial real estate loans are automatically assumed to make risky loans and therefore required to have additional capital. Many times we believe it is much safer to make a commercial business loan that other types of loans. Our record of losses on commercial real estate loans have been excellent. We have had more losses on business inventory, accounts receivable, operating lines of credit, auto, 2nd mortgage loans than we have ever had with commercial real estate loans.

If this proposal becomes law I believe it will affect the local economy. There will be many banks and business that will be affected.

Just because several bank are making risky loans please do not paint all bank the same way.

Our concerns are not so much with the individual practices set out in the Guidance, but rather with the way the Guidance is imposed. We have had experience in which examiners impose existing regulations differently than they had previously done in the past. The proposed Guidance contains certain thresholds and a laundry list of practices and requirements. I am concerned that the rules of the game have suddenly changed. Specifically there are several points we would like for the Guidance to make clear. First, in looking at concentrations there will not be a one size fits all response. Each of our institutions has a different history, different controls, different portfolios, and different markets. When examiners determine there is a concentration, any response needs to be tailored for the specific circumstances.

Second, we hope the Guidance will make it very clear that if the concentration thresholds are exceeded it does not automatically require a capital increase. Any increase should be in the context of the circumstances of the particular institution.

Third, the Guidance should expressly indicate that its purpose is not to discourage commercial real estate lending.

If the Guidance is imposed in a mechanical or arbitrary manner or if it is intended to effect a policy shift discouraging commercial real estate lending, then we fear grave consequences.

Most importantly, if the message is perceived that commercial real estate lending has great regulatory risk, such loans will significantly diminish. This will lead to a

downturn in our economy that will create systemic problems for banks far beyond the risk of commercial real estate loans.

We hope the Guidance will make it very clear that if the concentration thresholds are exceeded it does not automatically require a capital increase. Any increase should be in the context of the circumstances of the particular institution.

The Guidance should expressly indicate that its purpose is not to discourage commercial real estate lending.

We appreciate the opportunity to respond to proposed Interagency Guidance Letters. What decisions you make will affect the banking industry and your decision to seek bank input is critical to continuing the long working relationship between banks and the regulators.

Sincerely,

Robert F. Chatfield, Senior V.P./CCO
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