October 19, 2012

Department of the Treasury: Comptroller of the Currency
Subject Line: Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements
E-mail: regs.comments@occ.treas.gov; or FAX: 202-874-5274

Federal Reserve System
Subject Line: Docket No. R-1442; RIN No. 7100 AD 87 Regulatory Capital Rules
E-mail: regs.comments@federalreserve.gov; or FAX: 202-452-3819 or 202-452-3102

Federal Deposit Insurance Corporation
Subject Line: FDIC RIN 3064-AD 96 Regulatory Capital Rules
E-mail: comments@FDIC.gov

Dear Sir or Madam:

The Kansas Bankers Association (KBA) appreciates the opportunity to submit comments to the Federal banking regulatory agencies regarding the proposal addressing Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements. The KBA is a non-profit trade organization having 287 of the 290 Kansas chartered banks as members.

First, we would like to thank you for extending the comment period on this proposal, allowing us adequate time to fully evaluate the impact that this proposed changes in capital requirements will have on member banks. To this end, we conducted a survey of our members regarding specific areas of the proposal. We had a 25% return on the survey of member banks. The bulk of this comment letter will be to share the results of this survey, and the commentary made by the member banks which responded.

Before venturing into the survey results, the KBA would like to register a few general comments about the proposal. Of concern to our industry, is that the proposal was not written by those who we know to be experts on the United States banking industry. There was no input requested from those who we know to be experts on the United States banking industry. There was no oversight of the content in any way, shape or form, by those who we know to be experts on the United States banking industry. The KBA does not disagree that re-establishing capital levels, so that member banks understand what is expected of them as an industry, is a great concept. However, we believe that those who know the industry best should be writing the rules, or at the least, having input or oversight into the content of the rules. To this point, we

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would not oppose those who believe this proposal should be discarded, so that the banking regulatory agencies can draft meaningful regulations that are more representative of and responsive to the industry.

The KBA believes that the banking regulatory agencies understand that a one-size-fits-all approach to capital standards does not represent the U.S. banking industry as it is today. We believe that Kansas is representative of the fact that there are many commercial bank shapes and sizes that exist across this country, and each and every model serves a purpose –each particular model is responsive to the needs of the "community" it serves. The KBA believes strongly in preserving the industry's right to remain innovative and to choose to serve the very smallest of communities as needed. There are some bank models that are less complicated than others, and deserve less complicated capital requirements. There are others whose level of sophistication is such that more layers are needed to assure the model stays strong and secure. We urge the banking regulatory agencies to consider the need to start over on this proposal to restructure the capital needs of the various banks across the country.

Survey Results.

Question 1. The Basel III proposal adds a new Common Equity Tier 1 Risk-Based Capital Ratio, which would require a bank to have a Ratio of at least 6.5% to be considered a "well-capitalized" bank. Does the addition of the new Common Equity Tier 1 Risk-Based Capital Ratio adversely affect your bank?

Answer: 52.2% Yes 47.8% No

Comments:

~ 3 Comments on the plus/minus adjustment for Accumulated Other Comprehensive Income: Such an adjustment could have a significant adverse impact upon community banks.

~ 2 Comments on unrealized gains/losses on investment portfolios: Such income can have significant fluctuations, which could result in wild upward and downward swings in this capital ratio component. Although most community banks carry their investments as AFS, they do not actively sell/trade investments. This could have a negative impact on Tier 1 capital.

~ This additional capital ratio is NOT meaningful to community banks, and should be excluded for community banks.

~ The limitations on mortgage servicing rights is very damaging.

~ As deferred tax assets are utilized on the date interest rates increase, and fair market value of AFS securities turn to unrecognized losses, this will adversely affect community banks.

~ The risk rate of securities is of great concern.

~ The additional time required to figure LTV on real estate loans for a small community bank is not cost effective.

~ Other than perhaps limiting acquisitions, this is not a constraint at this time.

~ This is a mega bank problem, and not a community bank problem.

Question 2. The proposal requires banks to maintain a "Capital Conservation Buffer" in order to have no restrictions on the payment of dividends, share buybacks, etc. Would the bank be able to meet the 2.5% Capital Conservation Buffer requirement?

Answer: 82.4% Yes 17.6% No

Comments:

~ Other than perhaps limiting acquisitions, this is not a constraint at this time, however the affect of OCI could be a problem if rates go up.

~ It will limit our ability to loan additional money.

~ 2 Comments: In practice, the regulators are already doing this with community banks – if regulators are not comfortable with the bank's capital, they issue an "individual minimum capital requirement" order which prohibits the bank from paying dividends, etc., if it goes below that requirement.

~ I would rather have the regulators just tell me when they want more capital – and then give the bank time to get there.

~ Current plans for growth would be stalled with this new requirement.

~ If the bank grows in deposits, this could affect the bank's ability to achieve the buffer..

~ If the investment portfolio is marked-to-market, or the risk-based capital requirements assigned to other assets changes, the bank may not maintain the buffer..

~ The cost of having an accountant maintain these calculations over time would probably exceed any dividends/bonuses to be paid.

Question 3. The Collins Amendment of the Dodd-Frank Act requires a phase-out from Tier 1 Capital of trust preferred securities and cumulative preferred stock over a three-year period beginning on January 1, 2013, for bank holding companies that had $15 billion or more in assets as of the end of 2009; and over a ten-year period for those banks under $15 billion. Does your bank holding company issue trust preferred securities?

Answer: 19.7% Yes 80.3% No

Comments:

~ One bank issues about $18 million - reducing the value of the whole balance as of the end of 2009 by 10% per year is very difficult.

~ 2 Comments that while their bank does not issue TPS now, having access to those capital markets in the future could be extremely beneficial.

~ Existing TPS should be grandfathered for banks under a certain size.

Question 4. Under the Standardized Approach for Risk-Weighted Assets proposal, Private Label Mortgage-Backed Securities, Trust Preferred Collateralized Debt obligations and Asset-Backed securities will be risk weighted based on one of three approaches, and the ratings-based approach of the past is eliminated. Does your bank invest in Private Label Mortgage Backed Securities, Trust Preferred Collateralized Debt obligations or Asset-Backed securities that would be subject to the proposed risk weighting rules?

Answer: 22.1% Yes 77.9% No

Comments:

~ Any investment in TPS would have a negative impact on a bank at the proposed risk weighting, which would cause the bank to divest itself of those investments.

~ This proposal will destroy any additional economic activity in the future for these types of investments.

~ 2 comments that the proposal would keep the bank from diversifying its portfolio by investing in these types of instruments.

Question 5. Under the Standardized Approach, balloon notes on 1-4 Family Residential Mortgage loans will have a risk weighting ranging from 100% to 200%, depending upon the loan-to-value (excluding PMI coverage). Does your bank use closed-end balloon notes rather than fully amortizing Adjustable Rate Mortgage loans to finance 1-4 family residential mortgages?

Answer: 60.3% Yes `39.7% No

Comments:

~ 2 comments that the new risk weighting needs to be revisited – most community banks use balloon notes to help manage interest rate risk.

~ Balloon notes are used to allow a borrower who might have had poor credit, to season the loan with the bank for 24 months. If after that time, there were no past due's, the bank could move the borrower into a 30 year, fixed rate in the secondary market.

~ Balloon notes are a very useful tool to coordinate the bank's cost of funds as an I nterest rate risk took, and also helps with asset quality control.

Question 6. If the answer above to Question 5 is yes, will this proposal cause the bank to stop offering balloon notes to consumers for 1-4 family residential mortgage loans?

Answer: 81/6% Yes 18.4% No

Comments:

~ 6 comments that the bank possibly would discontinue making such loans.

~ One bank will continue to make balloon notes until the capital burden becomes too onerous, or the CFPB no longer allows balloon notes.

~ 2 comments that this new risk weighting will reduce the number of loans made in this area, and consequently, will adversely impact consumers.

~ The risk weighting of such loans will change the bank's entire real estate portfolio.

Question 7. Under the proposed Standardized Approach, "High Volatility Commercial Real Estate (HVCRE)" loans will have a risk weight of 150%. Will the requirement that the borrower much contribute 15% of the "as completed" value prior to the bank advancing funds in order to avoid the HVCRE risk weighting adversely affect the borrower's ability to borrow and the bank's ability to lend for the purposes of real estate acquisition, development or construction financing loans?

Answer: 50.7% Yes 49.3% No

Comments:

~ 3 comments that this will not affect the banks' current practices as they currently require 15%.

~ This proposal will prohibit some lending and will discourage some borrowers before they even begin to work on a plan.

~ Putting a finite figure on commercial real estate loans is not reasonable, as so much depends on the borrowers strengths and weaknesses – whether they are a high net worth borrower, whether there is other collateral offered, whether the property appraises for more than the loan amount.

Question 8. Under the Standardized approach proposal, the risk weighting on past due loans (90 days or more past due) or non-accrual loans, other than 1-4 family residential loans and HVCRE loans, will increase to 150%. Will placing a 150% risk weighting on past due and non-accrual loans adversely affect the bank?

Answer: 59.7% Yes 40.3% No

Comments:

~ This will be harder on borrowers. It will be very expensive for the bank to be "patient".

~ 5 Comments that capital is already being allocated to these loans in the appropriate amount.

~ There is already an appropriate amount in the loan loss reserve for these types of loans, so requiring risk rating at 150 basis points will take capital away from other potential loans.

~ If these loans are well-secured and in the process of collection, there should not be a requirement to reserve more capital. This will greatly complicate the Call Report.

~ Most loans on non-accrual are on the bank's watch list with adequate reserves set aside. This is a double hit for the same loan – and will lower capital.

~ 3 comments that this could develop into a problem should loan delinquencies rise.

~ Keep in mind that not all past due loans are alike – so should not overgeneralize with the same "risk rating".

~ Not likely to make the less-than-gold-plated loans if we take the risk of needing to pump more into capital. This could result in higher fees to the consumer.

~ This is not a major problem as the bank does not have many loans in the category, but believe this will encourage banks to simply charge loans off, or to re-write loans that perhaps should not be rewritten.

Question 9. Under the Standardized Approach proposal, credit-enhancing representations and warranties on 1-4 family residential mortgage loans sold to the secondary market will have to be risk-weighted as off-balance sheet items. Currently, these features do not get counted as off-balance sheet assets in the banks ratios if the bank's liability is 120 days or less. Will the loss of the 120 day exclusion period for credit-enhancing representations and warranties affect the bank's willingness to make fixed-rate 1-4 family residential mortgage loans?

Answer: 50% Yes 50% No

Comments:

~ This proposal will reduce by 50%, the amount of 1-4 family loans.

~ 3 comments that the bank does not use the secondary market.

~ This proposal may cause bankers to just resort to using government guarantees like FSA and SBA loans only, and exit the residential real estate loan market. A one rule fits all banks does not work.

~ This proposal will require the secondary market to provide adequate reports for the bank to evaluate.

~ The FHLB MPF program already requires the bank to include the Credit Enhancement for those loans in our off-balance sheet commitments for Risk-Based capital at this time.

Conclusion.

There is not a Kansas bank that does not realize the importance of maintaining a level of capital that is sufficient to ensure that customers and shareholders alike, are assured of the safety and soundness of the bank. If this proposal is intended to increase capital levels for all banks, we believe it could be achieved in a much simpler manner, but this proposal appears to go further – to dictate the make-up of the loan and investment portfolios of banks using a cookie-cutter approach. We believe these decisions are best made on an individual bank basis based on the needs of the bank's respective community.

We urge the re-consideration of a standard that is less complex, that is responsive to the various needs of communities both large and small, and that does not cause some institutions to exit certain markets in the communities which still have the need for such loans.

Thank you, once again, for the opportunity to present results of the survey of KBA members and their comments.

Sincerely,

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President

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