

From: Tito Echiburu [mailto:tito@bankofmorton.com]
Sent: Wednesday, September 05, 2012 10:10 AM
To: Comments
Subject: 2012_08_13_FDIC Sample Letter re New Capital Rules Affect on TRUPs_Morton

August 13, 2012

Mr. Robert E. Feldman, Executive Secretary
ATTN: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Dear Mr. Feldman:

Re: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action

The proposed capital rules give my institution cause for concern. Making a midstream change always has many unexpected consequences, but this rule change has some foreseeable damaging consequences. Below, I have outlined three major issues that we currently foresee.

First, and most obvious is the damage to banks that issued pooled trust preferreds (approximately 1,800 community banks issued.) These securities were created to give community banks an additional capital source. These banks are currently utilizing the capital rules that have been in existence since issuance. With continuing effort on the part of community banks to improve their capital ratios, it is counterproductive to adversely change the rules without at least grandfathering the current issues outstanding.

Secondly, many community banks across the country own Pooled Trust Preferred Securities (TRUPS). Obviously, by weakening the capital position of the issuing institutions, the credit of these securities could be severely damaged. Further, many issuing institutions also own TRUPS. It would be extremely difficult to overcome a reduction of capital and large potential other-than-temporary impairment (OTTI) charges due to this rule change.

Finally, it is imprudent to change capital market rules in midstream. Investors of TRUPS likely would not have been purchasers had they known that the capital treatment may change. Properly functioning capital markets need stable rules to remain functional. This would certainly derail community banks' financial flexibility in the future.

In conclusion, we believe that this rule change is potentially devastating to many community banks, damages the integrity of capital markets, and is unfair to issuers and purchasers of trust preferred securities. We highly encourage you to reconsider this damaging rules change, and, at a minimum, consider grandfathering existing trust preferred securities issued by community banks.

Sincerely,

Tito Echiburu
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