Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 2-3
Washington, DC 20219
Regs.comments@occ.treas.gov
Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Regs.comments@federalreserve.gov

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
comments@fdic.gov

Re: RIN 3064–AD95

Dear Sirs/Madams:

We appreciate the opportunity to comment on the notices of proposed rulemaking (NPRs) that would revise and replace the agencies' current capital rules related to the implementation of the Basel III accords.

The National NeighborWorks® Association (NNA) respectfully puts forth our recommendations and concerns regarding these proposed rules.

NNA is the national trade association of "NeighborWorks®" organizations: non-profits chartered by Neighborhood Reinvestment Corporation (d/b/a NeighborWorks® America) that create affordable housing and economic opportunities in America's urban, rural and suburban communities. Our membership includes over 190 NeighborWorks® and non-NeighborWorks® non-profit housing and community development organizations in 49 states, Washington, DC and Puerto Rico.

Our members have a 30+ year history of facilitating lending to borrowers – including lower income families, borrowers with impaired credit and others who would not normally qualify for a conventional mortgage. NNA members typically serve the underserved, overlooked, and unfairly targeted. Although our members would not be directly impacted by the proposed Basel III rules (many are CDFIs, but not banks subject to these proposed rules), the local community development banks many of our members rely on to provide homeownership and multi-family financing would be negatively impacted.

Balancing Credit Access and Risk

We are concerned that in an attempt to "get back to basics" and prevent the proliferation of exotic mortgages that led to the financial crisis, the Basel III proposed rules, in combination with last year's "qualified residential mortgage" (QRM) definition, will hinder a fledging housing recovery, create unnecessary barriers to homeownership, and discourage lending in underserved areas. The proposed rules should strike a better balance between borrowers' access to mortgages and lenders' risk from those loans.

The proposal would establish a complex risk weight structure for single family mortgages, with lower weighting for residential mortgages that conform to narrow regulatory criteria (Category 1), and much higher risk weighting for all other mortgages (Category 2), which makes it more difficult for lenders to provide credit to potential borrowers and homeowners, especially in underserved areas where large down payments and/or "plain vanilla" mortgage products may not be responsive to local market needs. For example, the dramatic changes from two to eight different treatments based on loan-to-value (LTV) for single family mortgages will create unnecessary complexity and deter prudent lenders from tailoring fair credit products to lower wealth borrowers.

For example, one of our members serving the entire state of Montana partners with a local community bank based in Helena, MT, that provides high LTV loans to clients our Montana group serves and suggests that due to increased costs imposed on higher LTV loans by the proposed rules would result in the local bank simply halting offering those loans. Many of our members across the country would experience the same. Our member organization in Montana and others like them throughout the country are able to successfully make higher LTV loans work through comprehensive homebuyer education and counseling. These tailored products have historically low default rates that oftentime perform better than conventional. Many rely on smaller, local community banks that understand the local market and know these loans are a safe transaction with very low risk.

Over the past 20 years, banks and non-profit lenders have increased the availability of healthy credit to underserved areas by using well-designed and solidly underwritten Community Reinvestment Act (CRA) mortgage products that have historically performed quite well. Narrowly drawn regulatory criteria, and significant increases in capital charges for residential lending, will create unnecessary barriers to mortgage finance for modest income homebuyers. They will also drive borrowers out of regulated, insured depositories and back into the market of unregulated, unexamined lenders.

The proposal ignores important elements of careful underwriting that serve to mitigate lenders' risk, such as private mortgage insurance, a high FICO score, savings, earnings potential, and homebuyer education and housing counseling meeting national standards. Carefully originated, soundly underwritten, well-documented single family loans provide families with good homes that they can sustainably afford, but don't neatly fit into the "box" created by regulatory proposals.

Balancing Investment Risk with Broad Paperwork Requirements

The proposal's complexity is likely to reduce the number of institutions able to finance residential mortgages, effectively concentrating the supply of financing to a limited number of institutions.

The proposal could also have severe consequences for bank investments in securities backed by mortgages. The proposal includes a complex capital framework for investment in tranches of asset backed securities. That framework, combined with onerous capital charges associated with significant due diligence requirements, will also discourage bank investment in affordable rental housing.

We assume that the proposal maintains the current 50% charge for seasoned multifamily mortgages and 100% for qualifying new multifamily mortgages. But the proposal increases by half (from 100% to 150%) what banks have to hold against multifamily loans for acquisition, construction, and development. In addition, the proposed narrow exception only credits a developer's cash contribution, precluding an institution from recognizing the value of land contributed, and the borrower's overall history and relationship with the institution.

We do support language in the proposal related to the definition of securitization that exempts Community Development and Small Business Investment Corporations from the definition, to wit: 1) the underlying exposures are not owned by a small business investment company described in section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682); and 2) the underlying exposures are not owned by a firm an investment in which qualifies as a community development investment under 12 U.S.C. 24(Eleventh).

Conclusion

The severe, unintended consequences of the proposals must be carefully considered before the rules are finalized. We look forward to working with you as you strike the balance between managing risk and allowing prudent and smart lending in our communities who still so desperately need financing to match increasing demand.

Sincerely,

Lou Tisler
Board President

David C. Brown
Executive Director