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May 29, 2012

BY E-MAIL

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Attn: Comments
Comments@FDIC.gov

Re: Assessments, Large Bank Pricing ("LBP") Definition Revisions
Notice of Proposed Rulemaking: Docket No. RIN 3064-AD92

Dear Mr. Feldman:

PNC Bank, National Association ("PNC Bank"), Wilmington, Delaware, appreciates the opportunity to comment on the proposed rule[1] published by the Federal Deposit Insurance Corporation ("FDIC") seeking additional comments on certain definitions contained in the final rule that established a new methodology for determining deposit insurance assessment rates for large and highly complex institutions (the "February Rule").[2] PNC Bank commends the FDIC for republishing for comment certain aspects of the February Rule in order to address a number of substantive questions and issues that had been raised with respect to these provisions. We believe that this process will result in improved definitions that will more accurately reflect the actual risk of consumer and commercial loans and enhance the ability of banks to comply with the revised definitions in a consistent fashion.[3]

PNC Bank has participated actively in the comment letter being filed jointly by the American Bankers Association, The American Securitization Forum, The Clearing House Association L.L.C., The Financial Services Roundtable, The Loan Syndications and Trading Association, and the Risk Management Association on the Proposed Rule (the "Trade Associations Letter"), and fully supports the comments set forth in that letter. This comment letter is intended to supplement the Trade Associations Letter and to highlight the following issues identified in the Trade Associations Letter that we believe warrant particularly close consideration by the FDIC.

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[1] 77 Fed. Reg. 18109 (March 27, 2012) (the "Proposed Rule").

[2] Assessments, Large Bank Pricing, 76 Fed. Reg. 10672 (February 25, 2011) (to be codified at 12 CFR 327.9).

[3] The February Rule applies to "large and highly complex" insured depository institutions. For purposes of the February Rule, PNC Bank is a "large institution" because it had deposits of $10 billion or more as of December 31, 2006. It is not a "highly complex" institution because its parent holding company (The PNC Financial Services Group, Inc.) has less than $500 billion in total assets.

Higher-Risk Consumer Loans and Securities

1. The final rule should specify that the time period for estimation of the probability of default ("PD") for consumer loans will be updated biannually. In order to enhance the ability of banks to plan for their reporting requirements, the re-estimation interval should be predefined and predictable.

2. The FDIC should provide at least three quarters advance notice (and preferably four quarters advance notice) prior to a change in the specifications for estimation of the PD for consumer loans.

3. Data collected from reports of the "Outstanding Balance of Consumer Loans by Two-Year Probability of Default" table should not be disclosed or used in public statements.

4. An increase in a credit card credit line of up to 10 percent, or a change in the interest rate for a credit card, should not be considered a refinance.

5. When an institution acquires a consumer loan or security, it should have up to one year to determine whether the asset meets the "higher-risk" definition where the institution must obtain refreshed data from the borrower or another appropriate third party.

Higher-Risk Commercial and Industrial ("C&I") Loans and Securities

6. For the purpose of determining "materiality," total funded debt should have to increase by 50 percent or more, rather than 20 percent or more, within a 12-month period in order to be considered material.

7. The same $5 million threshold for materiality should be applied consistently for purposes of determining whether a C&I loan is higher-risk. Under the proposal, a new loan of less than $5 million would not be considered a "higher-risk" loan even if it were used to finance an acquisition of, buyout or capital distribution. Similarly, a loan of less than $5 million made to a borrower, even if used to finance an acquisition, buyout or capital distribution, should not cause *subsequent* borrowings by the borrower to be classified as higher-risk.

8. The definition of "capital distribution" should be modified to avoid capturing ordinary business actions that improve a bank's business prospects and that enhance shareholder value.

Asset-Based Lending Exclusion

9. The asset-based lending exclusion from characterizing C&I loans as “higher-risk” should not require a new borrowing base certificate or validation of assets at each draw or advance on a loan.

Securitizations

10. In determining whether a securitization is “higher risk,” the final rules should give deference to reasonable efforts made by Large Bank Pricing institutions in determining whether a securitization is “higher risk.”

11. With respect to “higher-risk” assets that serve as underlying collateral in a securitization, the structural elements of the securitization transaction should be taken into account in determining whether the position held by the relevant bank poses “higher risk.”

Information in support of each of these comments is included in the Trade Associations Letter. Additional information is provided below in support of items comments 5, 9, 10 and 11 above.

Discussion

Higher-Risk Consumer Loans and Securities

5. **When an institution acquires a consumer loan or security, it should have up to one year to determine whether the asset meets the “higher-risk” definition where it must obtain refreshed data from the borrower or other appropriate third party.**

As discussed in the Trade Associations Letter, we believe that the proposal greatly underestimates the difficulty of obtaining information regarding the origination criteria, as well as the time period for obtaining refreshed data, in an acquisition of a loan portfolio or a bank merger. Not all the necessary data elements may be available when the loan is acquired, particularly where the seller of the loan portfolio is not an insured depository institution or is a bank with less than $10 billion in assets, and therefore is not required to maintain data in conformance with this FDIC rule. Obtaining refreshed data from the borrower or other appropriate third party will be a manual and time-consuming task.

We also believe that the FDIC should give consideration to loans either acquired at a discount or marked to fair value based on current purchase accounting rules. Where a loan is acquired at a discount, or is marked down as a result of purchase accounting rules, the risk of the loan to the acquirer is mitigated through the discount or fair-value process. To assume in such a situation that the loan continues to present the same level of risk to the acquirer of the loan as it presented to the originator would not be reasonable. We would welcome the opportunity to discuss with the FDIC staff how loans that are purchased at fair value or at a discount should be viewed for purposes of determining whether such loans are considered “higher risk” for deposit insurance assessment purposes.

Asset-Based Lending Exclusion

9. The asset-based lending exclusion from characterizing C&I loans as “higher risk” should not require a new borrowing base certificate or validation of assets at each draw or advance on a loan.

As noted in the Trade Associations Letter, it is not standard practice amongst lenders active in the asset-based lending (“ABL”) market to obtain a new borrowing base certificate at each draw or advance on a loan, and, given that the lender has control over the borrower’s depository account and cash flow through a blocked account and lock box, it is not unusual for draws to occur on a daily basis. Thus, requiring banks to obtain a new borrowing base certificate at each draw or advance on a loan would impose a major administrative burden on banks and their borrowers, potentially eviscerating the usefulness of this exclusion. In view of the numerous criteria that ABL transactions must meet in order to qualify for the exclusion, including the collateral requirements, the advance rate requirements, and the asset valuation requirements, as well as the periodic borrowing base reporting requirements, eliminating the requirement for a new borrowing base certificate with each draw or advance should not reduce the adequacy of the protections designed to ensure that asset-based loans are not higher risk. Accordingly, we **strongly recommend** that the FDIC follow the suggestions of the Trade Associations Letter and delete this requirement when issuing the final rule.

Securitizations

10. In determining whether a securitization is “higher risk,” the final rules should give deference to reasonable efforts made by LBP institutions in determining whether a securitization is “higher risk.”

We strongly support the recommendation in the Trade Associations Letter that the FDIC’s final rule clarify that large institutions should make a reasonable effort to determine whether at least half of the assets held by a securitization are “higher risk,” considering the proposed list of items that the bank may consider, but that a bank is not required to check all of the items on the list in every case.

We believe that obtaining the data necessary for determining whether more than 50 percent of the assets backing the securitization meet the criteria for higher-risk C&I loans (or consumer loans) would be extremely difficult in certain cases. For example, collateralized loan obligations (“CLOs”), which are securitizations of corporate loans, do not typically report the type of information regarding the borrower and its previous borrowings necessary to make the required determination.

Similarly, with consumer loan securitizations, many securitizations do not provide loan level data, but rather provide data at the aggregated pool level. When loan level data is available, the data provided is not typically adequate to assign loan level PDs necessary to perform the proposed calculation.

Accordingly, the final rule should clarify that banks are to use their best judgment in making a reasonable effort to determine whether at least half of the assets held by a securitization are higher-risk. In addition, the FDIC should not overturn a determination made by an LBP institution that a securitization exposure is not a "higher-risk" securitization without a compelling reason to do so.

If the FDIC is unwilling to make these suggested changes, then the FDIC should allow LBP institutions that invest in additional securitizations after October 2012 to continue to use the transition guidance for leverage loans and subprime loans as outlined in the General Instructions (Instructions) for Schedule RC-O of the Consolidated Reports of Condition and Income Memorandum items 6 through 15. Continuation of the interim guidance would be necessary in such circumstances because LBP institutions that invest in securitizations may not have access to the information necessary to determine whether the underlying assets meet the definitions of "higher-risk" loans included in the Proposed Rule.

11. With respect to "higher risk" assets that serve as underlying collateral in a securitization, the FDIC should take into account structural elements of the transaction in assessing risk.

The risk that securitization exposure presents to a bank is dependent on both the nature of the underlying assets and the structure (including credit enhancements) of the securitization structure itself. The Proposed Rule, however, fails to differentiate between the positions of security holders in the cash flow waterfall of a securitization, as well as credit enhancements inherent in the securitization structure. Accordingly, the proposal could well designate as "higher risk" senior positions in a securitization that clearly present low risk to the institution holding the interest.

Accordingly, we support the recommendation in the Trade Associations Letter that a two-step process be used for identifying a "higher-risk" securitization: first, using available information (as described above) to determine whether a securitized asset pool is more than 50% collateralized by "higher-risk" assets, and, second, if so collateralized, determining whether the applicable securitization position should be treated as "higher risk" based on the risk-weighting methodologies that are currently being developed by the FDIC, OCC and Federal Reserve for securitization exposures as a replacement for the ratings-based methodologies currently in the regulatory capital rules. We believe a risk weight of 200% - 250% or greater (and that is therefore viewed to be below "investment grade" quality by both LBP institutions and the market) would be an appropriate threshold to use to identify "higher-risk" assets for these purposes.

Conclusion

PNC Bank appreciates the opportunity to comment on the proposed definitions of "higher-risk" consumer and C&I loans and securities. We believe that the comments in this letter, as well as those in the Trade Associations Letter, are fully consistent with the purposes of the FDIC assessment system for large and highly complex institutions and would make the definitions of "higher-risk" consumer and commercial loans and securities more workable. Please do not hesitate to contact Ronald Lewis, Vice President and Manager of Regulatory Reporting, at (216) 222-9247, or me, if you have any questions regarding the comments in this letter.

Sincerely,

James S. Keller