Wisconsin Bankers
ASSOCIATION

April 9, 2019

VIA ELECTRONIC DELIVERY
Robert E. Feldman
Executive Secretary,
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
RIN 3064-AE91

Ann E. Misback
Secretary,
Board of Governors of the Federal Reserve System
Eccles Board Building
20th and C Street, N.W.
Washington, D.C. 20219
Docket No. R-1638

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C. 20219
Docket ID OCC-2018-0040

Re: Capital Simplification for Qualifying Community Banking Organizations

Dear Ladies and Gentlemen:

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 230 state and nationally chartered banks, savings and loan associations, and savings banks located in communities throughout the state. WBA appreciates the opportunity to comment on the banking agencies' (Agencies) proposed Community Bank Leverage Ratio (CBLR) rulemaking implementing Section 201 of Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act).

Background

Section 201 of the Economic Growth Act requires the Agencies to issue a rule creating a "Community Bank Leverage Ratio" between 8 percent and 10 percent, such ratio ultimately to be set by the Agencies. If a "qualifying community bank" is above the threshold, it will be deemed well capitalized and in compliance with risk-based capital requirements, such as Basel III. Section 201 acknowledges that many community banks maintain capital levels far in excess of any amounts that would be required by the complex evaluations, measurements, and calculations mandated under

Wisconsin Bankers Association | 4721 South Biltmore Lane | Madison, WI 53718 | P: 608-441-1200 | F: 608-661-9381 | wisbank.com

the Basel III regulations. For these highly capitalized banks, the considerable and costly work of applying Basel III and related reporting framework yield no additional supervisory or safety and soundness benefits.

Section 201(a) also sets out criteria governing eligibility for compliance with the CBLR by defining a "qualifying community bank" as a bank with total consolidated assets of less than $10 billion and by authorizing the Agencies to establish other qualifying criteria governing eligibility for the CBLR based on a consideration of the risk profile of qualifying community banks. To implement Section 201 of the Economic Growth Act, the Agencies have now issued the CBLR proposed rule.

Under the proposal, a qualifying community banking organization would be defined as a depository institution or depository institution holding company with less than $10 billion in total consolidated assets with limited amounts of off-balance sheet exposures, trading assets and liabilities, mortgage servicing assets (MSAs), and deferred tax assets (DTAs) arising from temporary differences that a banking organization could not realize through net operating loss carrybacks (temporary difference DTAs).

The CBLR, as proposed, would be measured as the ratio of tangible equity capital (CBLR tangible equity) divided by average total consolidated assets. Tangible equity would be defined as total bank equity capital or total holding company equity capital, as applicable, prior to including minority interests, and excluding accumulated other comprehensive income (AOCI), DTAs arising from net operating loss and tax credit carryforwards, goodwill, and other intangible assets (other than MSAs), each as of the most recent calendar quarter and calculated in accordance with a qualifying community banking organization's regulatory reports.

Also, under the proposal, a qualifying community banking organization may opt-in to use the CBLR framework if its CBLR is greater than 9 percent. In addition, the proposal provides an alternative CBLR PCA framework for banks that have opted-in to the CBLR and have had their CBLR subsequently falls to 9 percent or less.

Specifically, for insured depository institutions, the proposal incorporates CBLR levels as proxies for the following PCA categories: adequately capitalized, undercapitalized and significantly undercapitalized. If a CBLR banking organization's CBLR meets the corresponding CBLR levels, it would be considered to have met the capital ratio requirements within the applicable PCA category and be subject to the same restrictions that currently apply to any other insured depository institution in the same PCA category. Although the alternative CBLR PCA framework is widely viewed as more punitive than the existing PCA framework, banks are able to opt-out of the CBLR at any time.

We believe that the CBLR proposal is not intended to reduce the amount of regulatory capital banks need. Rather, it is designed to be a regulatory relief measure for banks that can demonstrate they have significantly more regulatory capital than the new Basel III standards require. WBA, therefore, believes that this proposal, subject to the comments below, would help reduce regulatory burden for these banks by reducing staff time, outside audit costs and even examination time.

CBLR Must Remain Optional At All Times

The proposal sets forth a flexible framework that allows qualifying institutions to opt-in at any time. In addition, banks that have opted-in to the CBLR framework are permitted to opt-out of CBLR framework at any time by using the generally applicable capital requirements and completing the associated reporting requirements. WBA believes a flexible and optional CBLR framework is a critical component to achieve a reduction in regulatory burden and undue costs for community banks.

Having said that, WBA is concerned that its members could be forced to opt-in to the CBLR framework if their peers in their community opt-in to the framework. Members have expressed concern that examiners will view banks that don't opt-in to the framework as outliers and pressure them to raise capital and opt-in to the framework. This is underscored by the Conference of State Bank Supervisors' recently submitted CBLR comment letter that has questioned how optional the CBLR framework would actually be in practice. WBA is further concerned that its members could be trapped within the CBLR framework by examiners even as their capital levels decline.

If either of these circumstances were to occur, the institution would be subject to the extremely conservative CBLR PCA regime. In effect, if institutions are forced on to, or trapped in, the CBLR, the proposal would constitute a significant increase in the capital requirements for community banks. These concerns arise from past experiences during the financial crisis where examiners used every possible tool to raise capital at institutions.

For these reasons, WBA believes it is critical that the Agencies strongly reinforce the optionality described within the proposal. The Agencies need to clarify that an institution can opt-out at any time without prior approval or notice.

CBLR Should Be Calibrated At 8 Percent

The proposal emphasizes that the CBLR is not intended to reduce the amount of regulatory capital banks need. Instead, it is designed to be a regulatory relief measure for institutions to demonstrate they meet the Basel III standards. We agree with this purpose. And, based upon a survey of our members, WBA believes the purpose will be best achieved with an 8 percent CBLR. In fact, all respondents with a CLBR of 8 percent indicated they would benefit from the rule. Thus, setting the CBLR at 9 percent would limit the number of institutions eligible for relief in Wisconsin.

Establishing the ratio at 8 percent, as allowed by the statute, would calibrate the CBLR closer to current risk-based capital requirements for well capitalized banks including the common equity tier one ratio of 6.5 percent and the tier one risk-based capital ratio of 8 percent. Moreover, an 8 percent CBLR would put the ratio closer to the current 5 percent leverage requirement for well capitalized banks, and would allow more community banks to be eligible to use the new framework.

Finally, WBA believes the adoption of CECL could impact the number of institutions eligible for CBLR relief. We believe that CECL will increase reserves and the volatility of reserves at most community banks and that those increases in reserves will be at the expense, and serve the same purpose, of regulatory capital. The ability of these increases of reserves to absorb losses further justifies lowering the CBLR calibration to 8 percent.

Conclusion

WBA appreciates the efforts made by the Agencies to simplify and improve the current regulatory capital framework for community banks. We urge the Agencies to finalize a rule that clearly provides the CBLR remains optional at all times, and that sets the CBLR at 8 percent.

WBA also strongly encourages the Agencies to continue this effort as well as further efforts to simplify the generally applicable risk-based capital standards to address unnecessary complexity and provisions that needlessly inhibit economic growth or constrain banks in fulfilling their core functions.

Finally, WBA appreciates the opportunity to comment on this important matter.

Sincerely,

[redacted]

Kristine Cleven
Vice President-Legal