From: Robert Taylor <taylor@lba.org>
Sent: Tuesday, May 18, 2021 9:11 AM
To: regs.comments@federalreserve.gov; Comments
Subject: [EXTERNAL MESSAGE] RE: Docket ID OCC-2021-0002; Federal Reserve R-1741 & RIN NO. 7100-AG11; FDIC RIN 3064-AF73

LouisianaBankers ASSOCIATION

May 18, 2021

By Email

Chief Counsels Office
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regs.comments@federalreserve.gov

James P. Sheesley
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RE: Docket ID OCC-2021-0002; Federal Reserve R-1741 & RIN NO. 7100-AG11; FDIC RIN 3064-AF73
Amendment To The Capitol Rule To Facilitate The Emergency Capital Investment Program

Ladies and Gentleman,

The Louisiana Bankers Association is the only trade association in Louisiana representing the banking industry in Louisiana. These comments are submitted as a reflection of the significant number of banking institutions impacted by the proposed regulation in Louisiana.

In March 2021, Treasury published the application and term sheets for the Program. Separately, the Agencies issued the IFR to revise existing regulatory capital rules to accommodate and account for capital instruments issued under the Program. Pursuant to the IFR, preferred stock qualifies as tier 1 capital, while subordinated debt qualifies as tier 2. The Agencies now solicit comment on the IFR, particularly regarding the regulatory capital treatment of the Senior Preferred Stock and Subordinated Debt issued under ECIP, and the advantages and disadvantages of the differing capital treatment.

LBA strongly believes that ECIP is a program that empowers MDI and CDFI community banks to help communities and families. MDI's and CDFI's are located in and serve areas that have been disproportionately affected by the COVID-19 pandemic. As a result, they have been well positioned to help consumers and small businesses during this recovery. The capital raised from ECIP will leverage and accelerate those efforts. However, LBA is concerned that the IFR's treatment of subordinated debt as tier 2 capital will greatly diminish the Program's potential and reduce the impact that Congress envisioned for the Program, especially considering that subordinated debt is the only instrument available under this Program for mutual banking organizations and S-corporations. Categorizing subordinated debt as tier 2 capital will result in very significant dollars not being as fully leveraged as it could be, or worse yet, leaving significant sums of money unused. Not only does the categorization of subordinated debt as tier 2 limit its utility for purposes of Basel III capital standards, but it is rendered even more limiting for banks that comply with the community bank leverage ratio, as that framework does not account for tier 2 capital. Therefore, LBA strongly urges the Agencies to revise the categorization of subordinated debt as tier 1 capital and to exclude it from treatment as debt for purposes of the debt-to-equity ratio under and the Small Bank Holding Company Policy Statement. Such action would adhere to Congressional intent under the Act, keep with precedent set by similar programs from prior emergencies, and treat MDIs and CDFIs equitably, regardless of their corporate structure.

LBA believes that treating ECIP subordinated debt as tier 1 capital, and excluding it when a BHC or SLHC calculates its debt, is consistent with a strong public policy objective, which is to increase the capital available to banking organizations generally in the current environment and thereby capital and support to the small businesses and consumers located in low- and moderate-income and minority communities that have disproportionately suffered from the impacts of the COVID–19. I strongly encourage all ECIP Sub Debt be excluded 100% from the proposed rule. Further, a maturity date of 30 years or more instead of 15 years for Sub Debt just as Trust Preferred Securities used to be.

Thank you for considering these comments.

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The mission of the Louisiana Bankers Association is to help banks grow and prosper.