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March 14, 2006

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

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, DC 20551
regs.comments@federalreserve.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.,
Washington, DC 20552
Attention: No. 2005–56
regs.comments@ots.treas.gov

Office of the Comptroller of the Currency
250 E Street, SW., Mail Stop 1–5
Washington, DC 20219
regs.comments@occ.treas.gov

Re: **FDIC** (No docket ID); **FRB** Docket No. OP–1246; **OCC** Docket No. 05–21; **OTS** Docket No. 2006–01; **Proposed Interagency Guidance on Concentrations in Commercial Real Estate**; 71 Federal Register 2302; January 13, 2006.

Ladies and Gentlemen:

The federal banking agencies (the Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and Office of Thrift Supervision, hereafter designated "Agencies") have proposed an Interagency Guidance on Concentrations in Commercial Real Estate that raises the requirements for risk management by banks and savings associations ("Guidance") that are deemed to have a concentration in commercial real estate ("CRE"). While not all commercial banks or savings associations are significantly involved in commercial real estate lending, a number of them are. For the reasons outlined below, this Guidance may well have significant adverse impact upon the banking industry and local economies. Accordingly, we recommend that the Agencies not issue it in its current form.

The Iowa Bankers Association (IBA) is the largest trade association representing the banking industry in Iowa, with roughly 400 members statewide. This represents approximately 94% of the banking and thrifts located in the state of Iowa. The IBA appreciates the opportunity to comment regarding the proposed Guidance.

General Comments

In addition to the existing rules and guidance for commercial real estate lending from the Agencies, IBA staff discussions with member bankers reveal that many of our bankers see the Guidance as imposing significant new requirements on them as they engage in CRE lending. These bankers see the Guidance as raising serious concerns, which may be summarized as follows:

1. The new definition of a concentration in CRE includes several different types of CRE lending without any attempt to distinguish the different levels of risk posed by each.

2. Bankers will need to invest significant time, money, and effort to counter the assumption that they have an unsafe "concentration" of real estate loans.

3. Community banks with large portfolios of CRE should not necessarily have significantly higher reserves for loan losses. Such increased reserves should follow only if a portfolio in fact presents a higher level of risk.

4. The Guidance strongly suggests that community banks deemed to have a concentration in CRE will be required to hold significantly higher levels of capital than other banks because of a conclusion that a large portfolio of CRE is inherently riskier.

5. The Guidance may significantly reduce community banks' ability to fund CRE in their communities, which will have negative impact on the banks and their communities.

Recommendations

The Agencies should not issue one-size-fits-all guidance. Rather, the Agencies should apply existing guidance on a case-by-case basis to address any problems in those banks not engaging in CRE lending responsibly.

If the Agencies do issue additional CRE guidance, then it needs to be greatly modified. First, it needs to focus on those institutions that are causing the Agencies concern. One way to achieve this is to exclude from the definition of a concentration in CRE property for which the contractor has a contract for the construction and purchase of the property. Second, the initial concentration limits are too low to justify the greater increased scrutiny. The initial screen should at a minimum be raised to 200% of a bank's total capital.

With respect to the requirements for community banks to monitor these CRE loans, the Guidance should make clearer how the specific requirements for management information systems and monitoring of the CRE portfolio may be scaled for smaller banks and/or banks with specific CRE portfolios, such as primary residential housing construction. Few community banks have all of the recommended risk management practices specified in the Guidance in place – and none believe that all of the practices set forth in the Guidance are justified for the CRE lending that they are doing. There appears to be no attempt in the proposed Guidance to scale the regulatory response to the size of the bank or the particular composition of its portfolio, creating a “one-size fits all” approach inconsistent with other regulatory initiatives in examination and supervision.

The extensive requirements set forth in the Guidance may be overwhelming for a community bank. Examiners will be asking for the bank’s reports on market conditions, evidence of increased board oversight, production of new policies, more detailed strategic planning, quantifiable limits, contingency plans, feasibility studies, sensitivity analysis, stress-testing, tracking presales and more. Examiners clearly may use this Guidance to substantially increase the regulatory burden on community banks with limited staffs, and they may well feel that they are required to do so by the terms of the Guidance. ABA and our bankers believe this to be excessive, and should be reserved for those few banks that have problems in the risk management of their portfolios, whether it be CRE or any other concentration of lending.

The proposed Guidance should be rewritten to more carefully state when and how higher levels of reserves and higher capital requirements would be determined by examiners. The Agencies should not impute higher risk levels just on the basis of a finding of a concentration (as it is newly defined in the Guidance) in CRE lending. The Agencies need to address the needs for larger reserves or more capital on a case-by-case basis as part of the supervisory examination process rather than through an overly broad approach to reigning in CRE lending.

Finally and most importantly, community bankers already find themselves unable to be competitive in various consumer lending businesses, lacking the scale to make credit card or auto lending profitable and sometimes unable to compete against the largest national mortgage lenders. Tax advantaged entities such as large community chartered credit unions and the presence of the Farm Credit System in Iowa also have an effect on the consumer and agricultural lending in Iowa. Many Iowa based community banks have become larger lenders in the CRE market as a natural evolution of the banking market, as former Chairman Greenspan observed. This willingness to support business expansion in their communities has been crucial to economic recovery over the last few years in the state of Iowa. The implication that there will be major increases in capital requirements and loan loss reserves, as well as major additional demands on banks’ officers and lending personnel to provide in-depth market analysis, stress testing analysis, and other analyses relating to possible negative effects of CRE concentrations, leads many banks to believe that they may well have to significantly curtail their CRE lending. As CRE lending has been one of few remaining major profit lines for community banks, they are deeply concerned about the negative impact of this Guidance on them and, consequentially, on their communities.

If the Agencies continue with issuing this Guidance, the IBA strongly urges the Agencies to thoroughly revise the Guidance to eliminate the areas of confusion and concern that it has created for community banks. Failing to do so would be a disservice to the Agencies’ regulated institutions and to the communities these banks serve. If you have any questions about these comments, please call the undersigned.

Sincerely,

Robert L. Hartwig
Legal Counsel