American Bankers Association

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Re: Risk-Based Capital Guidelines: Market Risk; Alternatives to Credit Ratings For Debt and Securitization Positions

Ladies and Gentlemen:

The American Bankers Association (ABA)[1] is writing to request an extension of the comment period for the proposed "Market Risk; Alternatives to Credit Ratings for Debt and Securitization Positions" (Ratings Proposal) that was approved by the Federal Deposit Insurance Corporation (FDIC) Board on December 7, 2011. The short comment period, scheduled to end on February 3, 2012, does not provide adequate time to fully understand the implications and impact of the proposal and to provide meaningful comments.

In 2009, the Basel Committee finalized its "Revisions to the Basel II Market Risk Framework."[2] The Committee revised the Framework, in part, to eliminate arbitrage between the banking book and trading book. Generally, the Basel Revisions apply the banking book capital treatment, a ratings-based approach, to securitizations held in the trading book.

Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 complicates U.S. adoption of the Basel revisions. Section 939A prohibits the use of credit ratings in U.S. regulations. As a result, the U.S. banking agencies' proposal[3] adopting the Basel Market Risk Revisions installed a "placeholder" where credit ratings were used in the Basel Revisions. The Ratings Proposal is a supplement to the U.S. Market Risk Revisions proposal.

[1] The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its 2 million employees. The majority of ABA's members are banks with less than $165 million in assets. Learn more at www.aba.com.

[2] Available at http://www.bis.org/publ/bcbs158.htm.

[3] 76 Fed. Reg. 1890 (Jan. 11, 2011).

However, the Ratings Proposal has implications far beyond the Market Risk Revisions. U.S. regulators have not yet removed references to credit ratings in the existing banking book capital rules. The Ratings Proposal offers alternatives to the ratings-based approach for securitizations in the trading book. Because the banking book and trading book treatment are supposed to mirror each other, Acting Comptroller Walsh stated at the FDIC Board Meeting:

> Consistency between these rules [banking book and trading book] is important to reduce opportunities for regulatory arbitrage, but it also means the approach will affect banks large and small. So we hope to receive feedback from the entire banking industry, not just the large banks, on whether this proposal represents a practical and effective alternative to ratings.

ABA appreciates how difficult it has been for the banking agencies to develop substitutes for credit agency ratings. However, ABA believes it was inappropriate for the banking agencies to start discussing a fundamental shift in capital regulation for <u>all</u> banks in a proposal that is directly applicable to just a few. The existing market risk capital rules are a relatively obscure; the agencies received just four comments on the initial US market risk revision proposal.

ABA urges the agencies to grant the entire banking industry more time to review and comment on the proposal. All institutions, both large and small banks, need additional time to review the operational complexities of the proposal and understand the potentially significant impact. This proposal has to compete for bank staff time with all the other rulemakings currently proposed by the banking agencies and, for some institutions, the application of the CCAR. Even the largest and most sophisticated institutions will find providing effective comment within the comment period challenging given these other demands. Therefore, ABA respectfully request that the Agencies consider extending the current February 3, 2012 comment period deadline for at least an additional 30 days.

Moreover, every effort needs to be made to inform the industry that the Rating Proposal will have implications for <u>all</u> banking entities. We urge the all the agencies to highlight this proposal's broader implications to banks of all sizes through their examiners, speeches, and press releases.

Thank you for considering our request. Please feel free to contact me at any time at hcarney@aba.com or 202.663.5324 to discuss this request further or answer any questions you may have.

Sincerely,

Hugh Carney

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