Evans, Sandra E

From: Abbie McBride [amcbride@liifund.org]
Sent: Monday, November 03, 2003 5:51 PM
To: 'regs.comments@occ.treas.gov'; 'regs.comments@federalreserve.gov'; 'comments@FDIC.gov'; 'regs.comments@ots.treas.gov'
Cc: Nancy O. Andrews; Mark Pinsky (E-mail); Judith Kennedy (E-mail)
Subject: Comments on Advanced Notice of Proposed Rulemaking on the propose d Risk-Based Capital Rules

49

November 3, 2003

Mr. John D. Hawke, Jr.
Office of the Comptroller of the Currency
250 E Street, SW, Washington, DC 20219
Fax: (202) 874-4448 regs.comments@occ.treas.gov
<mailto:regs.comments@occ.treas.gov>.
Attention: Docket No. 03-14

Ms. Jennifer J. Johnson, Secretary,
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW, Washington, DC 20551
Fax: (202) 452-3819 regs.comments@federalreserve.gov
<mailto:regs.comments@federalreserve.gov>
Attention: Docket No. R-1154

Mr. Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW, Washington, DC 20429
Fax: (202) 898-3838 comments@FDIC.gov <mailto:Comments@FDIC.gov>.
Attention: Comments, FDIC

Regulation Comments, Chief Counsel's Office,
Office of Thrift Supervision
1700 G Street, NW, Washington, DC 20552
Fax: (202) 906-6518 regs.comments@ots.treas.gov
<mailto:regs.comments@ots.treas.gov>
Attention: No. 2003-27

To Whom It May Concern:

On behalf of the Low Income Investment Fund (LIIF), a network national nonprofit community development financial institution (CDFI), I am pleased to provide comments in response to the Advanced Notice of Proposed Rulemaking on the proposed Risk-Based Capital Rules, published on August 4, 2003.

LIIF is a national nonprofit CDFI, headquartered in Oakland, California dedicated to high-volume lending and technical assistance to organizations working to alleviate poverty in low income neighborhoods. LIIF fosters healthy communities by providing a bridge between capital markets and low income neighborhoods. LIIF encourages comprehensive strategies that address the diverse needs of people and communities.

Since its inception in 1984, LIIF has provided approximately $353 million in financing and technical assistance for projects benefiting low income communities, leveraging investments of over $3 billion: an eight to one ratio. These projects have made a significant difference in the lives of low income families, supporting:

* 44,350 units of low income and special needs housing
* Over 13,000 child care spaces;
* 1,125 spaces in charter schools for children; and
* 1.2 million square feet of commercial space.

In fiscal year 2003 (ending June 30, 2003), LIIF provided $40.4 million in financing to organizations serving working to expand the supply of quality affordable and special needs housing, child care, education and other vital community facilities. Seventy-five percent of this lending was directed towards very-low income families and individuals.

LIIF applauds U.S. bank regulators and others who recognized the vital role of Community Reinvestment Act (CRA) investments in the U.S., and negotiated for a special rule for "Legislated Program Equity Exposures." This section wisely preserves the current capital charge on most equity programs made under legislated programs that involve government oversight. CRA-related investments are generally held harmless under the proposed rule. Insured depository institutions investing in such programs therefore would set aside, by and large, the same amount of capital for CRA investments under the new rules as they do now-about $8.00 for every $100 of capital invested.

Given that CRA investments in affordable housing, and community and economic development, have a different risk/return profile than other equity investments, that treatment is appropriate. Based on considerable experience in the U.S. to date, CRA equity investments may sometimes provide lower yields than other investments but they also have lower default rates and volatility of returns than other equity investments. For example, LIIF's delinquency rate as of September 30, 2003 was 0.14 percent, and LIIF has written off less than 0.16 percent of all capital disbursed since its inception.

LIIF is extremely concerned about the potential consequence of the proposed rules that could affect adversely the amount of equity capital flowing into investments under the CRA. Specifically, the "materiality" test of the proposed rules requires institutions that have, on average, more than 10 percent of their capital in ALL equity investments, to set aside much higher amounts of capital on their non-CRA investments, such as venture funds, equities and some convertible debt instruments. As drafted, this calculation includes even CRA investments that are specifically excluded from the new capital charges.

Including CRA investments, with their very different risk/reward profile, in the "materiality" bucket of more liquid, higher-yielding, more volatile equity exposures could have an unintended chilling effect on the flow of equity capital to communities in need. CDFIs and their bank partners have invested substantially in affordable housing and economic development (for example, through Low Income Housing Tax Credits (LIHTC) or New Markets Tax Credits (NMTC)) that currently approach, or even exceed, the 10 percent threshold just from CRA-qualified investments alone. If the materiality test is adopted as proposed, it could discourage banks from making CRA investments to avoid triggering the higher capital charges on non-CRA investments. We understand that these higher capital charges could be twice as much on publicly-traded equities; and three times as much on non-publicly traded ones.

Financial institutions' support for affordable housing and community revitalization is well-established public policy in the United States. Bank regulators and the Congress have encouraged and created incentives for investment in poor communities through such public policy initiatives as the 1992 Public Welfare Investments (Part 24), the 1995 CRA revisions that specifically encouraged equity investments, and both the LIHTC and NMTC program incentives. Furthermore, in 2000, the Federal Reserve Board released a study confirming that CRA-related investing is by-and-large profitable and, more importantly, it satisfies the double-bottom line-social impact and financial reward, with little or no risk to investors. These facts, combined with a remarkable performance record of CRA-related investments and more than a $1 trillion invested to date, provide a strong rationale to exclude CRA investments from the materiality test calculation.

We respectfully submit these comments on behalf of LIIF and the community development finance industry as a whole. Please contact me at (510) 893-3811 ext. 310 or amcbride@liifund.org <mailto:amcbride@liifund.org> if you have any questions or would like any additional information on this matter. Thank you for your consideration.

Sincerely,

Abigail McBride
Director of Development

cc: Judy Kennedy, National Association of Affordable Housing Lenders
Mark Pinsky, National Community Capital Association
Nancy O. Andrews, President and CEO, LIIF