April 10, 2006

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

Ms. Jennifer J. Johnson, Secretary
Board of Governors, Federal Reserve System
20th Street & Constitution Ave., NW
Washington, DC 20551
Attention: Docket No. OP-1246
regs.comments@federalreserve.gov

Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 1-5
Washington, DC 20219
Attention: Docket No. 05-21
regs.comments@occ.treas.gov

Re: Proposed Interagency Guidance on Concentrations in Commercial Real Estate

The Kansas Bankers Association appreciates the opportunity to offer comments on this very important proposal which will raise the requirements for risk management for banks and savings associations deemed to have a concentration in commercial real estate as that is defined by the proposal. The KBA is a nonprofit organization which has as its members, 349 of the 350 banks chartered in Kansas.

KBA member institutions represent a great diversity of lending practices – as diverse as the population and geography of the state itself. So, while some Kansas banks will not be adversely affected by the proposed guidance, we believe many will be. As we have reviewed the proposal, as well as the observations of others on this topic, the KBA stands in support of the comments made by the American Bankers Association in its letter dated March 30, 2006, and would like to take this opportunity to stress the importance of several points made in the ABA letter.

Definition of Commercial Real Estate (CRE).
The KBA also believes that the definition of CRE is over-encompassing in that it makes no differentiation between retail /office commercial real estate loans (what we consider to truly be "commercial" loans) and 1-4 family residential construction loans. The two should not be lumped together as if the underwriting and risks involved in making the two types of loans involved the same analysis.

Secondly, the KBA agrees that the exemption for owner-occupied loans should include loans on 1-4 family residences where the loans are made directly to consumers for the construction of new housing, as well as those loans made where the contractor has a contract for the home (custom home contract). These loans are more akin to a direct loan with the owner of the new home than they are commercial real estate for the reasons set forth in the ABA letter on Page 4.

Burden of Countering Assumption of an Unsafe Concentration of CRE.
It is the KBA's belief that current rules used to monitor the concentration of any type of lending in an institution's loan portfolio are working. The KBA staff remembers the rules and regulations that were put in place in the 1990's to better regulate CRE concentrations. Bankers have stronger capital requirements, more stringent real estate lending and appraisal requirements, express limits on high LTV real estate loans (both at the state and federal levels), and better supervisory examinations - largely due to the existing guidance on real estate lending and the application of loan-to-value ratios and limitations on loans in excess of those ratios.

Imposing strict limits and increased risk-management practices based on the proposed thresholds disregards the sound lending practices and risk-management techniques that institutions today employ when making commercial real estate loans. The proposed guidance gives no regard to those institutions who consistently demonstrate solid commercial lending performance based on the existing standards. That is the true travesty of the proposal.

Adding insult to injury is the fact that many community banks, due to safety and soundness concerns expressed by examiners under the current regulatory structure, have worked very hard to focus on one or two major types of lending in order to be sure that they have the expertise to manage the particular risk associated with that type of lending. These institutions have identified a "niche" that allows them to compete with the larger institutions and for which they have made efforts to ensure that they compete in a safe and sound manner. The strict imposition of limits contained in this proposal would potentially serve to penalize those institutions who are very cognizant of current restrictions and who are successfully working within the current rules.

Increased capital requirements and higher loss reserves.

There is no one making the case for allowing unrestricted concentrations of credit. Bankers recognize the need to diversify and to manage the risk they create within their own portfolio. There are several reasons that an institution may have a larger percentage of a certain type of loan within the loan portfolio. "Niche" banking, as mentioned above, is one of them; geography is another. Some KBA members are located within an area where there just is not the demand for more than one or two types of loans.

Currently, bankers are using the guidelines and regulations in place to manage their loan portfolios, measure the losses in that portfolio, determine if reserves are adequate and make a determination of the need for additional capital. Examiners currently have the power to require a bank to increase the bank's capital or to increase the loan loss reserve level. The fear is that in setting these arbitrary limits provided by the proposal, no consideration is given to these other factors. The process that the institution goes through in determining true risk in the loan portfolio is ignored.

True risk should not be measured by a number. Evaluating risk is a process that requires the analysis of many factors. The required analysis is adequately represented by the current supervisory system.

In summary, we would respectfully ask that the proposed guidance on concentrations in commercial real estate not be issued at this time in light of the fact that the current regulatory structure is sufficiently prudent to protect the safety and soundness of the banking system, but is flexible enough to allow institutions to compete.

Thank you, once again, for allowing the KBA to offer comments on this most important matter.

Sincerely,

Charles A. Stones

Charles A. Stones
President