THE
CAPITAL CONSORTIUM

(21)

June 7, 2000

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Communications Division, Third Floor
Office of the Comptroller of the Currency
250 E. Street, SW
Washington, D.C. 20219
Docket No. 00-06

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551
Docket No. R-1055

Mr. Robert E. Feldman
Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429
Attention: Comments/OES

Manager Dissemination Branch
Records Management and Information Policy
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Docket No. 2000-15

Regarding: Proposed Rule for Risk-Based Capital Standards, and Recourse and Direct Credit Substitutes relating to Office of the Comptroller of the Currency 12 CFR Part 3, Federal Reserve System 12 CFR Parts 208 and 225, Federal Deposit Insurance Corporation 12 CFR Part 325, and Department of the Treasury, Office of Thrift Supervision 12 CFR Part 567

Dear Madam or Sir:

The Capital Consortium would like to take this opportunity to respond to the Notice of Proposed Rulemaking published on page 12320 of the Federal Register on March 8, 2000 (the "Proposed Rule"). The Proposed Rule was jointly submitted by the Office of the Comptroller of the Currency (OCC), the

Board of Governors of the Federal Reserve (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively the "Agencies"). The Agencies are proposing revisions to their risk-based capital standards to address the regulatory capital treatment of recourse obligations and direct credit substitutes that expose banks, bank holding companies, and thrifts to credit risk.

The Capital Consortium ("Consortium") was formed in 1992 to facilitate the flow of capital to income producing commercial real estate properties, including multifamily housing.[1] The Consortium and its constituent organizations have undertaken many regulatory and legislative initiatives to facilitate the development of the secondary market for commercial mortgages.

This letter addresses only those aspects of the Proposed Rule that control the risk-based capital standards applicable to commercial mortgage-backed securities ("CMBS") rated in one of the two highest investment grade categories. The proposed treatment of highly rated CMBS has been the primary focus of previous Consortium comments.

For example, in February 1998, The Consortium submitted a comment letter responding favorably to a prior Agency rulemaking that, among other things, would have reduced risk-weights applicable to triple-A rated CMBS to 20%. [2]No final action was taken by the Agencies in connection with this earlier rulemaking, however. Accordingly, in January 1999, the Consortium submitted a supplemental letter urging the Agencies to take prompt action to reduce regulatory capital risk weights for triple-A rated CMBS to 20%, noting that this step could be taken even as other more controversial issues associated with the rulemaking received further consideration. In February 1999, the Agencies responded to the Consortium, indicating that they agreed that triple-A rated securities "warranted serious consideration for the 20 percent risk weight". However, the Agencies rejected separating triple-A rated securities for independent consideration, citing their

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[1] The Consortium is comprised of:

The Real Estate Roundtable (TRER) leads the active involvement of the nation's principal real estate owners, advisors, builders, investors, lenders and managers in the national policy process. As a result, TRER communicates with policymakers and the public about real estate, the role it plays in the economy, and the national issues that affect it. TRER's offices are located at 1420 New York Avenue, NW, Suite 1100, Washington, D.C.

Mortgage Bankers Association of America (MBA) is a real estate finance trade association representing approximately 3,000 member mortgage companies, life insurance companies, commercial banks, savings banks, savings and loan associations, pension funds and their advisors, consultants and others in the mortgage lending field. MBA's offices are located at 1919 Pennsylvania Ave., N.W., Washington, D.C.

National Association of Realtors® (NAR) is the nation's largest trade and professional association with more than 720,000 members across the country. NAR's membership is composed of REALTORS®, who are generally brokers and salespeople, and REALTORS-ASSOCIATES, a membership category made up largely of salespeople. NAR is located at 700 Eleventh Street, NW, Washington, D.C.

The Bond Market Association (Association) represents securities firms and banks that underwrite, trade and sell debt securities and related instruments, both domestically and internationally. These debt securities and related instruments include: municipal bonds; U.S. Treasury securities; federal agency securities; mortgage and other asset-backed securities, corporate debt securities; money market instruments; and repurchase and securities lending arrangements. The Association's headquarters office is located at 40 Broad Street, New York, New York.

Commercial Mortgage Securities Association (CMSA) is an umbrella organization of industry participants having a common purpose of promoting an orderly and ethical global institutional secondary market for the sale of commercial mortgage loans and equity investments. CMSA is located at 11050 Roe Avenue, Suite 200 Overland Park, Kansas.

[2] 62 Federal Register 59944 (Nov. 5, 1997)

objective of issuing a broader-based risk-based capital rule. The Consortium believes that with the issuance by the Agencies of the current, Proposed Rule, that opportunity is now at hand.

The Consortium, through this comment letter, registers its full support of the Proposed Rule's prospective joint agency treatment of CMBS rated in one of the two highest investment grade rating categories (i.e., CMBS possessing either a triple-A or double-A credit rating from one or more nationally recognized statistical rating organizations). Adoption of the Proposed Rule will have the effect of reducing the risk-weighting for both triple-A and double-A rated CMBS from 100 percent to 20 percent. We strongly believe that the Agencies' proposed capital requirements for CMBS rated at these levels is amply justified by the historical credit performance record of such instruments, and would substantially improve the liquidity and marketability of such securities.

The Consortium recognizes the continuing effort the Agencies have made in the past few years to revise risk based capital regulations applicable to securitization positions and is extremely grateful for the high level of consideration we have received in response to our previous comments and suggestions. We look forward to continuing our close working relationship with the Agencies and in bringing this important rulemaking initiative to fruition. Should you have questions regarding this submittal, the following staff representatives of individual Consortium member organizations are available to discuss your questions:

Mortgage Bankers Association of America – Deborah McKinnon (202) 557-2746
National Association of Realtors® – Douglas Miller (202) 383-1117
The Real Estate Roundtable – Clifton Rodgers (202) 639-8400
The Bond Market Association – George Miller (212) 440-9403
Commercial Mortgage Securities Association – Dottie Cunningham (212) 352-3151

Respectfully Submitted,

MORTGAGE BANKERS ASSOCIATION OF AMERICA
NATIONAL ASSOCIATION OF REALTORS®
THE REAL ESTATE ROUNDTABLE
THE BOND MARKET ASSOCIATION
THE COMMERCIAL MORTGAGE SECURITIES ASSOCIATION

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