



John F. Robinson
Executive Vice President
Corporate Risk Management

1301 Second Avenue
WMC3201
Seattle, WA 98101

206 500 4149 phone
206 377 3018 fax

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Attention: No. 2006-34
RIN 1550-AC02

Office of the Comptroller of the Currency
250 E Street, S.W.
Mail Stop 1-5
Washington, D.C. 20219
ATTN: Docket No. 06-10

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C., 20551
ATTN: Docket No. R-1266

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
RIN 3064-AD10

RE: Notice of Proposed Rule
Risk-based Capital Standards – Market Risk
Published September 25, 2006

Ladies and Gentlemen,

Washington Mutual Bank ("WaMu") appreciates the opportunity to comment on the notice of proposed rulemaking (the "NPR"), Risk Based Capital Standards – Market Risk, issued September 25th, 2006.

We have worked with ISDA (International Swaps and Derivatives Association), IIF (Institute of International Finance) and the RMA (Risk Managers Association) to develop a joint industry comment letter ("Joint Letter"). We have also worked with the Financial Services Roundtable on their response. We endorse those comments and add our voice to the concerns expressed.

WaMu's position is unique in that we are the only Basel II mandatory bank that is not also currently subject to the original Market Risk Rule. In addition, the proposed revisions are quite limited in their application to WaMu as they apply only to the short term inventory positions and hedges held at our broker-dealer subsidiary, WaMu Capital Corporation.

It is important to note that, as a thrift institution, WaMu's policies, strategies and market risk management framework do not contemplate proprietary trading with the intent of benefiting from intraday, overnight or other short term price movements or arbitrage opportunities. We are therefore especially sensitive to elements in the proposed rule that impose methodologies and monitoring responsibilities that do not align with prudent management and reporting of market risk as it exists at WaMu.

Rather than repeat the full discussion contained in the Joint Letter in this comment, we have instead highlighted briefly those concerns that apply to WaMu. They include:

1. We share the industry's concern with mismatched effective dates between the proposed Market Risk Rule and that of Basel II. We recommend alignment of the start dates between Basel II and the proposed Market Risk Rule. First, the requirement to develop supporting processes, methods, systems, and reporting for the Market Risk Rule only 6 months after the final rule is published is excessively burdensome. Second, introduction of the incremental default risk add-on to market risk a year before the same internal ratings based metrics are used for Basel II credit risk is imprudent in that it would require bypassing some of the quality controls associated with a staged Basel II implementation.
2. Definitional issues within the proposal result in over prescription in the measurement of incremental default risk. The scope of the market risk rule as it applies to WaMu would likely not include positions with significant credit risk and may not warrant the development of an internal model. WaMu would very likely choose the option for incremental default risk to be calculated using the Basel II IRB approach. In some circumstances, this will lead to double counting of default risk. Default risk is included in the definitions of both specific risk and incremental default risk. Where the IRB approach can be applied, the NPR does not state that the incremental default risk is the IRB charge *minus* the specific risk charge as would be consistent with the "*difference*" between a 1-year, 99.9% capital charge and a 10-day,

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99% charge (incremental default risk is defined as this "difference").

Instead, the two charges are added and double counting of default risk occurs. We propose an option of defining the Basel II IRB charge as the total for default risk and modify specific risk (including the standard specific risk approach) to not include default risk at all.

3. We are concerned with the set of overly prescriptive set of controls designed to track activity in which we do not engage. We appreciate the underlying logic in defining objective standards but object to this approach on both a philosophical and practical application basis as it applies to WaMu. The activities covered by the market risk rule currently cover a single product universe at WaMu (Mortgages and MBS). Portfolio hedging strategies and instruments are generally defined at this product universe level rather than single portfolio level. Requirements to distinguish between customer flow and market making activities are not meaningful and cannot be split after the fact. Market making is required for price discovery and liquidity without which customer flow is impossible. We propose a control environment that is aligned to the type and level of risk-taking within the portfolio. This could be accomplished either through less prescription and more supervisory discretion in control design or, potentially, a tiered control structure aligned to the degree and type of relevant risk-taking.

4. The proposed methodology for conducting back testing does not align with the activities of a subsidiary broker-dealer whose activity is dominated by the underwriting and distribution of securities backed by bank generated collateral and for which underwriting fees play a key role in profitability. Because underwriting fees are designed to compensate for intraday peaks in VaR measures, we support the continued inclusion of underwriting fees in back testing calculations as opposed to their proposed removal in the NPR.

Again, WaMu shares many of the concerns enumerated in the Joint Letter and would respectfully suggest that the agencies carefully consider it prior to final adoption of the new Market Risk Rule.

Sincerely,

John F. Robinson
Executive Vice President
Corporate Risk Management