

December 2, 2016

Honorable Janet Yellen
Honorable Chair
Board of Governors of the Federal Reserve System
20 H Street & Constitution Ave, NW
Washington, DC 20551

Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: New capital requirements to be adopted by Basel Committee on Banking Supervision

Ladies and Gentlemen:

The undersigned organizations¹ (collectively, the Associations) are writing to raise concerns about the proposed new Basel IV capital standards and the impact these rules will have on commercial and multifamily real estate lending in the U.S. – one of the pillars of the nation’s economy. It is also important for U.S. Regulatory Agencies to address the apparent disparity between the U.S. regulatory agenda for capital and liquidity and those requirements being considered elsewhere in the world. This incongruity appears contrary to the stated goals of the Basel Committee on Bank Supervision (BCBS) in the convergence towards common standards to enhance global financial stability – putting affected industries in the U.S. at a disadvantage to those in other nations.

Our members represent U.S. commercial and multifamily real estate investors, lenders and borrowers – a market valued at an estimated \$6.3 trillion supported by \$3.6 trillion of CRE debt.² Commercial banking organizations and commercial mortgage backed securities (CMBS) are two of the top sources of private label debt for commercial and multifamily real estate. The proposed Basel IV capital rules would impose significantly higher capital charges on commercial real estate (CRE) lending, securitization and servicing activities and impact both bank and non-bank participants.

It is our understanding that the U.S. Regulatory Agencies (Federal Reserve, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation) plan to institutionalize additional capital and liquidity measures next year that seem incongruent with recently proposed, as well as finalized, capital and liquidity regulations. The additional capital requirements expected to be adopted by the BCBS are of particular concern to the U.S. CRE sector.

¹ The undersigned organizations are CRE Finance Council, National Apartment Association, Mortgage Bankers Association, National Association of Real Estate Trusts, National Association of Realtors®, National Multifamily Housing Council, The Real Estate Roundtable. Further information about these organizations is provided in Appendix 1.

² Federal Reserve, Flow of Funds. <https://www.federalreserve.gov/releases/z1/>

These pending capital rules, collectively and informally known as “Basel IV”, but still technically part of Basel III, have been the subject of much debate and represent fundamental changes in principles, methodology and calibration.³ Moreover, the introduction of new Basel IV regulations would be in addition to a host of recent capital and other regulatory regimes that banks have been implemented in the last several years – including various Dodd-Frank regulations – which have already significantly increased capital charges and regulatory compliance costs. The cumulative impact that these various measures could have on credit capacity and the broader economy is not yet fully understood.

It is also important to note that, over \$1 trillion – or approximately \$1 billion a day – in U.S. commercial real estate debt is maturing over the next three years. So, maintaining adequate credit capacity is vital for commercial real estate.

Regulators and market participants in the European Union (EU) have recently voiced concerns about these pending rules, urging further study and analysis. Many U.S. market participants have also urged that these proposals, which would have far-reaching effect, are deserving of further analysis and study.

We support the Agencies’ efforts to ensure the safety and soundness of the banking system through revisions to the risk-based capital framework. At the same time, we believe that Basel IV could have harmful effects on the availability and cost of credit to commercial and multifamily real estate borrowers and on the U.S. economy in general. Given the importance of commercial and multifamily real estate to the U.S. economy, the credit challenges currently facing real estate borrowers and investors, and the continued volatility in credit and capital markets, the Associations strongly believe that further study and analysis is necessary to appropriately craft the proposed rules to ensure a properly functioning and reliable credit market. Real estate lending is too important to real estate borrowers, and too important to the overall U.S. economy, for such sweeping changes to be made without substantially more empirical study and support.

For this reason, we join the request made by the American Bankers Association⁴ and urge that as a first step in this process, the U.S. Agencies begin with the issuance of an Advance Notice of Proposed Rulemaking (ANPR), setting forth the purpose and rationale for any proposed modifications to the Standardized Approach and the Advanced Approaches together with analysis of the costs and benefits of various alternatives. We further encourage U.S. Agencies to refrain from adopting these rules until they have conducted an economic impact study on the effects of the new liquidity and capital standards on affected industries and the broader economy.

³ The Basel IV package includes many measures that directly impact the CRE sector, including the risk-based capital treatment of: stabilized loans (BCBS 347), ADC loans (BCBS 347), loans to financial institutions (BCBS 362), securitizations held in the trading (e.g., Fundamental Review of the Trading Book, BCBS 352) and investment books (BCBS 303), and warehouse lines (BCBS 303). In addition, there are other features included in Basel IV that are expected to drive capital requirements higher broadly across business lines, such as changes to operational risk measurement (BCBS 355) and a new capital floors framework (BCBS 306).

⁴ See, American Bankers Association Letter September 21, 2016 at http://bankingjournal.aba.com/2016/09/aba-urges-regulators-to-seek-feedback-on-proposed-basel-capital-changes/#_ga=1.50079279.862358008.1479746512

As the leading global economic power, it is critical that the U.S. maintain the elements of a strong marketplace and economy while also ensuring that any future crisis, such as the one that ensued nine years ago, is mitigated in the future. The industry stands ready to work with the Agencies to find the right balance between regulation and liquidity.

We appreciate this opportunity to comment, and we look forward to working constructively with the Agencies on this important matter.

Sincerely,

Commercial Real Estate Finance Council

Mortgage Bankers Association

National Apartment Association

National Association of Real Estate Trusts

National Association of Realtors ®

National Multifamily Housing Council

The Real Estate Roundtable

Appendix 1 – Undersigned Associations



The **CRE Finance Council** (CREFC) is the trade association for the \$3.6 trillion commercial real estate finance industry. More than 300 companies and 8,000 individuals are members of CREFC. Member firms include balance sheet and securitized lenders, loan and bond investors, private equity firms, servicers and rating agencies, among others. Our industry plays a critical role in the financing of office buildings, industrial and warehouse properties, multifamily housing, retail facilities, hotels, and other types of commercial real estate that help form the backbone of the American economy. CREFC promotes liquidity, transparency and efficiency in the commercial real estate finance markets. It does this by acting as a legislative and regulatory advocate for the industry, playing a vital role in setting market standards and best practices, and providing education for market participants.



The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.



NAREIT is the worldwide representative voice for real estate investment trusts (REITs) and publicly traded real estate companies with an interest in U.S. real estate and capital markets. NAREIT's members are REITs and other businesses throughout the world that own, operate and finance income-producing real estate, as well as those firms and individuals who advise, study and service those businesses.



The National Association of Realtors®, “The Voice for Real Estate,” is America’s largest trade association, representing over 1.1 million members involved in all aspects of the residential and commercial real estate industries.



For more than 20 years, the National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) have partnered in a joint legislative program to provide a single voice for America's apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry’s largest and most prominent firms. As a federation of nearly 170 state and local affiliates, NAA encompasses over 69,000 members representing more than 8.1 million apartment homes throughout the United States and Canada.



The Real Estate Roundtable and its members lead an industry that generates more than 20 percent of America’s gross national product, employs more than 9 million people, and produces nearly two-thirds of the taxes raised by local governments for essential public services. Our members are senior real estate industry executives from the U.S.’s leading income-producing real property owners, managers and investors; the elected heads of America’s leading real estate trade organizations; as well as the key executives of the major financial services companies involved in financing, securitizing, or investing in income-producing properties.