The Real Estate Roundtable

January 9, 2018

The Honorable Mike Crapo
Chairman
Senate Banking, Housing, and Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Senate Banking, Housing, and Urban Affairs Committee
534 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

The Real Estate Roundtable[1] is pleased to support your efforts to identify measures that will promote economic growth and enable market participants and financial companies to better participate in the economy.

One such measure involves reform of the Basel III High Volatility Commercial Real Estate (HVCRE) Rule as stipulated in a bipartisan measure that passed the U.S. House of Representatives in November – *Clarifying High Volatility Commercial Real Estate Loans* (H.R. 2148). We encourage the Senate Banking Committee to initiate a similar measure.

As financial institutions absorb a multitude of overlapping Dodd-Frank and Basel regulations, we are concerned about the cumulative impact these rules are having on real estate credit capacity, liquidity, capital formation and job growth.

Congressman Pittenger (R-NC) and Congressman Scott's (D-GA) bipartisan legislation – H.R. 2148 – helps address concerns regarding the Basel III HVCRE rules by amending the Federal Deposit Insurance Act to clarify the certain requirements for certain acquisition, development, or construction loans (ADC).

[1]The Roundtable brings together leaders of the nation's top publicly-held and privately-owned real estate ownership, development, lending and management firms with the leaders of major national real estate trade associations to jointly address key national policy issues relating to real estate and the overall economy. By identifying, analyzing and coordinating policy positions, The Roundtable's business and trade association leaders seek to ensure a cohesive industry voice is heard by government officials and the public about real estate and its important role in the national and global economies. Collectively, Roundtable members' portfolios contain over 12 billion square feet of office, retail and industrial properties valued at more than $1 trillion; over 1.5 million apartment units; and in excess of 2.5 million hotel rooms. Participating trade associations represent more than 1.5 million people involved in virtually every aspect of the real estate business.

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Since the Rule's effective date of January 1, 2015, necessary clarification for key elements of the Rule have not been provided by regulators despite ongoing requests. Instead, the regulators issued a Notice of Proposed Rulemaking on Oct. 27, 2017[2] that fails to clarify the existing HVCRE definition which continues to be required from advanced standards banks – instead it creates a new exposure category – High Volatility Acquisition Development or Construction (HVADC). H.R. 2148 is intended to address this problem.

The current rules are overly broad and include many stabilized loans without construction risk in this HVCRE category, unduly burdening stabilized loans with capital charges appropriate to protect banks from heightened construction risks. Many banks, including small community financial institutions, have been deterred from making this type of loan – which can represent up to 50 percent of a small bank loan portfolio.

Of the $3.9 trillion in commercial real estate debt outstanding, commercial banks constitute our nation's largest source of commercial real estate financing. Yet, over $1 trillion is maturing though 2019 – including $469 billion in bank debt. Without adequate credit capacity, this wall of maturities could create problems in the banking system and the broader economy.

This is not just a problem for commercial real estate owners and bank lenders: it is a problem for the broader economy. It is important to note the significant contribution that the commercial and multifamily real estate industry makes to the nation's GDP – employing millions of people and producing a significant amount of the taxes raised by local governments for essential public services. Without adequate credit capacity for this important sector, jobs and tax revenue will be lost.

The House-passed legislation addresses several specific deficiencies in the agencies' regulations governing what is an HVCRE loan to ensure that they do not impede credit capacity or economic activity, while still promoting economically responsible commercial real estate lending. As such, the legislation does not eliminate the agencies' ability to require banks to hold higher capital for HVCRE loans. Rather, the bill provides the clarity which the regulators have yet to provide, including which types of loans should and should not be classified as HVCRE loans.

The Roundtable encourages policies that support job creation, economic growth and investment in the U.S. economy through a sensible financial regulatory framework that permits stable capital formation, balanced and disciplined lending.

The Banking Committee is to be commended for recognizing the important link between bank regulatory policy and economic growth and for taking steps to identify potential ideas that would foster job creation and economic activity. We look forward to working with the Senate Banking Committee on measures such as these that will help craft a sensible financial framework for growing a healthy economy.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Jeffrey D. DeBoer
President and Chief Executive Officer

cc: Members of the Senate Committee on Banking, Housing & Urban Affairs

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[2]October 27, 2017, Notice of Proposed Rulemaking, Basel III High Volatility Acquisition Development or Construction (HVADC), "Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996"